

EXHIBIT A

As Played 10-20-23

Designation List Report



Bell, Donald

2013-08-20

Bell, Donald

2013-08-21

Plaintiff Designations	01:50:41
Defense Designations	00:02:33
Plaintiff Counters	00:01:26
Defense Counters	00:09:35
Plaintiff Reply to Counters	00:00:37
Defense Reply to Counters	00:00:20
Overlaps	00:27:42
TOTAL RUN TIME	02:32:55








Documents linked to video:

1
15
16
32
154
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205
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256
260
272
328
385
592
696
824
825
826



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DESIGNATION	SOURCE	DURATION	ID
18:25 - 19:06	Bell, Donald 2013-08-20	00:00:08	Bell_Final.1
	18:25 THE VIDEOGRAPHER: Thank you very much.		
	19:01 Will the court reporter please administer		
	19:02 the oath.		
	19:03		
	19:04 DONALD L. BELL,		
	19:05 having been administered an oath, was examined and		
	19:06 testified as follows:		
19:12 - 19:14	Bell, Donald 2013-08-20	00:00:09	Bell_Final.2
	19:12 Q. Could you please state your full name and		
	19:13 current address for the record.		
	19:14 A. Donald D. Bell, B-e-l-l....		
19:15 - 19:16	Bell, Donald 2013-08-20	00:00:08	Bell_Final.3
	19:15 I-n-t-e-r-v-a-l-e, Drive, Riverside, California		
	19:16 92506.		
22:01 - 22:04	Bell, Donald 2013-08-20	00:00:08	Bell_Final.4
	22:01 Are you employed today?		
	22:02 A. No. I'm retired.		
	22:03 Q. How long have you been retired?		
	22:04 A. Since 2001.		
23:01 - 23:01	Bell, Donald 2013-08-20	00:00:03	Bell_Final.5
 16.1.6	23:01 Q. I'm handing you what's been marked Bell 1.		
23:09 - 23:13	Bell, Donald 2013-08-20	00:00:12	Bell_Final.6
 16.1.6	23:09 Can you just start by identifying this as		
	23:10 an e-mail written by Gene Gregory on April 13, 2009		
 16.1.4	23:11 and you were copied and it was sent to a number of		
	23:12 people?		
	23:13 A. That's true, yes.		
23:17 - 23:19	Bell, Donald 2013-08-20	00:00:12	Bell_Final.7
 16.1.5	23:17 Q. All right. And this indicates that you had		
	23:18 informed UEP in early 2009 that you were going to		
	23:19 finally retire effective July 1, 2009, correct?		
23:21 - 23:21	Bell, Donald 2013-08-20	00:00:01	Bell_Final.8
 Clear	23:21 THE WITNESS: Yes.		
24:02 - 25:04	Bell, Donald 2013-08-20	00:01:40	Bell_Final.9
	24:02 Q. Okay. After that date of July 1, 2009,		
	24:03 have you done any work or consulting in the egg		

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DESIGNATION	SOURCE	DURATION	ID
	24:04 industry that you were paid for?		
	24:05 A. No.		
	24:06 Q. Now, you referred to retiring in 2001.		
	24:07 What did you retire from in 2001?		
	24:08 A. Well, my position was University of		
	24:09 California poultry specialist statewide. Now my		
	24:10 title is emeritus in that same title.		
	24:11 Q. Okay. So after 2001 you became emeritus?		
	24:12 A. Yes.		
	24:13 Q. And what is a poultry specialist?		
	24:14 A. A poultry specialist is one of the staff of		
	24:15 the state land grant institution in the cooperative		
	24:16 extension, not university extension, but cooperative		
	24:17 extension.		
	24:18 This organization is part of the role of		
	24:19 the university to teach, research and extend		
	24:20 information.		
	24:21 My role was to work with the poultry		
	24:22 industry of California, mostly in educational,		
	24:23 research areas.		
	24:24 Q. Did you teach courses in that position?		
	24:25 A. Just adult courses from time to time, but		
	25:01 nothing formal.		
	25:02 Q. And over what period did you hold that		
	25:03 position?		
	25:04 A. 55 years.		
25:25 - 26:02	Bell, Donald 2013-08-20	00:00:05	Bell_Final.10
	25:25 Q. Did you contribute any reports or		
	26:01 analyses to UEP and its members?		
	26:02 A. Yes.		
26:13 - 26:14	Bell, Donald 2013-08-20	00:00:06	Bell_Final.11
	26:13 Approximately when did you start		
	26:14 contributing reports and analyses to UEP's members?		
26:20 - 26:21	Bell, Donald 2013-08-20	00:00:05	Bell_Final.12
	26:20 Since the formation of UAP. I don't know		
	26:21 what year that was, but since the beginning.		
27:13 - 27:14	Bell, Donald 2013-08-20	00:00:05	Bell_Final.13
	27:13 Q. How long were you affiliated with UEP,		
	27:14 specifically?		

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DESIGNATION	SOURCE	DURATION	ID
27:24 - 28:03	Bell, Donald 2013-08-20	00:00:26	Bell_Final.14
27:24	THE WITNESS: As I say, I began working in		
27:25	cooperation at the beginning of their organization		
28:01	with their chairperson. And, of course, I've always		
28:02	had the relationship with their members on a		
28:03	one-on-one basis in my regular duties.		
28:05 - 28:18	Bell, Donald 2013-08-20	00:00:34	Bell_Final.15
28:05	Q. But was there a period when you were		
28:06	retained to provide industry statistics and economic		
28:07	reports for UEP?		
28:08	A. Yes.		
28:09	Q. When did that cease?		
28:10	A. Cease or start?		
28:11	Q. Cease.		
28:12	A. Cease. I assume it's the same date we just		
28:13	talked about, 2009 when I terminated.		
28:14	Q. And when did that start?		
28:15	A. I was afraid you'd ask me that.		
28:16	Q. Approximately.		
28:17	A. I would say it might have been a ten-year		
28:18	relationship.		
28:19 - 29:08	Bell, Donald 2013-08-20	00:01:02	Bell_Final.16
28:19	Q. Now, what type of reports did you prepare		
28:20	for UEP and its members?		
28:21	A. Prior to my working with UEP, in fact since		
28:22	the beginning of 1958, I've always written economic		
28:23	reports for the industry. And UEP asked that I		
28:24	continue this work with them and with their members.		
28:25	And the Iowa State Egg Center now is continuing that		
29:01	work also.		
29:02	Q. And so you referred to economic reports		
29:03	that UEP asked you to provide. How would you		
29:04	describe those economic reports?		
29:05	A. Well, we had three regular newsletters on		
29:06	economics -- pardon me, four. And they would be on		
29:07	anything to do with the egg industry, primarily the		
29:08	table egg industry.		
29:21 - 30:05	Bell, Donald 2013-08-20	00:00:21	Bell_Final.17
29:21	Q. Now, of the reports that you prepared for		
29:22	UEP and its members, did you prepare reports that		

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DESIGNATION	SOURCE	DURATION	ID
	29:23 projected the size of the nation's table egg laying		
	29:24 flock?		
	29:25 A. Yes, we do that. We've done that since the		
	30:01 beginning every month.		
	30:02 Q. Did you prepare analyses of the		
	30:03 relationship between flock size and income in the		
	30:04 egg industry?		
	30:05 A. Yes.		
30:08 - 30:18	Bell, Donald 2013-08-20	00:00:55	Bell_Final.18
	30:08 Q. And what was the purpose of those types of		
	30:09 reports and analyses?		
	30:10 A. Well, they are all aimed at maintaining a		
	30:11 healthy industry. Healthy is usually interpreted as		
	30:12 being economically sound. And you're working with a		
	30:13 mass audience as opposed to individuals.		
	30:14 Individual consulting without a fee is		
	30:15 available at all times for any of these discussions,		
	30:16 but as we feel -- as I feel the needs of the		
	30:17 industry, along with any given line, I will tend to		
	30:18 emphasize that for a time period.		
30:23 - 31:16	Bell, Donald 2013-08-20	00:01:14	Bell_Final.19
	30:23 Q. All right. How did the analyses that you		
	30:24 prepared of the relationship between flock size and		
	30:25 income relate to maintaining a healthy industry?		
	31:01 A. Well, first of all, we have to be concerned		
	31:02 about costs, and then we have to be concerned about		
	31:03 income.		
	31:04 The greatest income is from eggs in this		
	31:05 particular case; that's almost 100 percent of it.		
	31:06 At times it might have been as low as 90 percent,		
	31:07 but it is normally -- today it is about a hundred.		
	31:08 Costs are predominantly feed. And so we		
	31:09 place a lot of emphasis on feed costs and feed		
	31:10 consumption, factors affecting feed consumption and		
	31:11 so on. And then the other costs make up the balance		
	31:12 of -- and so between the two, costs and income, we		
	31:13 have a measure of the well-being of the industry.		
	31:14 Q. And what was the purpose of projecting the		
	31:15 size of the nation's table egg laying flock and		
	31:16 looking at flock size?		

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DESIGNATION	SOURCE	DURATION	ID
31:22 - 32:04	Bell, Donald 2013-08-20	00:00:35	Bell_Final.20
31:22	There are many, many reasons why prices		
31:23	change. And the main one that's recognized is the		
31:24	size of the flock. More eggs, less price; less		
31:25	eggs, more price.		
32:01	Q. Now, would it be fair to say that one focus		
32:02	of your work was providing sound data that UEP could		
32:03	use to help persuade its members to manage egg		
32:04	supply?		
32:06 - 32:06	Bell, Donald 2013-08-20	00:00:02	Bell_Final.21
32:06	THE WITNESS: Yes.		
32:17 - 32:21	Bell, Donald 2013-08-20	00:00:11	Bell_Final.22
32:17	Q. Based on your years of experience		
32:18	being affiliated with UEP, would it be fair to say		
32:19	that one of the things that UEP did was to try to		
32:20	persuade its members to manage egg supply?		
32:21	A. Yes.		
33:02 - 33:03	Bell, Donald 2013-08-20	00:00:04	Bell_Final.23
33:02	Q. And did UEP, from time to time, ask for		
33:03	your assistance in doing that?		
33:05 - 33:09	Bell, Donald 2013-08-20	00:00:14	Bell_Final.24
33:05	THE WITNESS: I'd say yes and no.		
33:06	BY MR. OLSON:		
33:07	Q. Did UEP, from time to time, ask for you to		
33:08	prepare reports or analyses that would help it		
33:09	persuade its members to manage egg supply?		
33:11 - 34:11	Bell, Donald 2013-08-20	00:01:33	Bell_Final.25
33:11	THE WITNESS: I'd have to say yes and no		
33:12	again.		
33:13	BY MR. OLSON:		
33:14	Q. And what's the yes part?		
33:15	A. The yes part is that everyone associated		
33:16	with the egg industry recognizes the relationship		
33:17	between volume of production, bird members and		
33:18	price. And it's -- the relationships are fairly		
33:19	well established.		
33:20	Anything that I would say -- that we have		
33:21	too many chickens, that we don't have enough		
33:22	chickens -- in a hundred examples, not just in so		

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DESIGNATION	SOURCE	DURATION	ID
	33:23 many words, but in a hundred different examples, 33:24 applications, that that would be one of my roles, 33:25 uh-huh. 34:01 Q. And one of your roles was to provide data 34:02 that would help the industry balance the supply of 34:03 eggs with the demand for eggs, right? 34:04 A. That's right. We provided a one-source 34:05 place to go for statistics. The statistics didn't 34:06 start with me, but they were focused by me on the 34:07 problem. 34:08 Q. And were there times that UEP or its 34:09 leaders, like Gene Gregory, for example, would ask 34:10 you to develop plans for the industry at times when 34:11 there was an oversupply of eggs in the market?		
34:13 - 34:19	Bell, Donald 2013-08-20	00:00:15	Bell_Final.26
	34:13 THE WITNESS: Yes. 34:14 BY MR. OLSON: 34:15 Q. And were there times when you were invited 34:16 to give presentations to the UEP board of directors 34:17 regarding ideas for how to balance supply of eggs 34:18 with demand? 34:19 A. Yes.		
34:20 - 35:10	Bell, Donald 2013-08-20	00:00:50	Bell_Final.27
	34:20 Q. And were there times when you were invited 34:21 to USEM meetings? And are you familiar with what 34:22 USEM is? 34:23 A. I've never been invited to their meetings. 34:24 Q. Are you sure? 34:25 A. Are you talking about the egg 35:01 marketing association -- producers -- 35:02 Q. Sorry. United States Egg Marketers. 35:03 A. I may have been to their meeting once, 35:04 but -- I think I'll have to say I may have been. 35:05 There are so many different organizations, and -- 35:06 associated with the egg industry, including Urner 35:07 Barry and so on. 35:08 But I seem to recall that I might have had 35:09 a meeting with the marketing association, but 35:10 certainly nothing routinely.		
35:16 - 36:03	Bell, Donald 2013-08-20	00:00:44	Bell_Final.28

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DESIGNATION	SOURCE	DURATION	ID
	35:16 Q. Well, to your knowledge, what is a flock 35:17 reduction program? 35:18 A. Well, it could be cage density. That's 35:19 probably the most visible. It could be when we 35:20 worked with them for a national marketing order to 35:21 license production and I wrote several papers, so 35:22 it's a difficult one to answer with one word. 35:23 Q. It could include a number of different 35:24 things, is that your point? 35:25 A. Yes, I guess. 36:01 Q. Now, the first one you mentioned is cage 36:02 density. How can cage density be used in a flock 36:03 reduction program?		Bell_Final.28
36:12 - 37:04	Bell, Donald 2013-08-20 36:12 THE WITNESS: Cage density to most people 36:13 means how much space do you give your chickens, and 36:14 that also is related to how many birds you put in 36:15 the cage. It's not necessarily the number of birds 36:16 you have in the nation, that's not cage density. 36:17 That's hen population. 36:18 Cage density, I first started my research 36:19 with the extension service in about 1963 with cage 36:20 density experiments. At that time most cages held 36:21 one bird. The industry readily found that that was 36:22 not the way to go, it was not the economic way to go 36:23 and so they went to two. 36:24 What does that do? That increases the 36:25 population by a hundred percent. And then they went 37:01 to three, and so on, and so on. 37:02 So cage density is one of the easiest 37:03 things to correct and to demonstrate that this is 37:04 too much or too little.	00:01:18	Bell_Final.29
37:05 - 37:17	Bell, Donald 2013-08-20 37:05 BY MR. OLSON: 37:06 Q. And how does cage density relate to flock 37:07 reduction, specifically? 37:08 A. The same thing. The -- if we're interested 37:09 in reducing the flock size because the profitability 37:10 of the industry is absent, that's one of the first 37:11 things that anybody can do. And it's also not only	00:00:41	Bell_Final.30

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DESIGNATION	SOURCE	DURATION	ID
	37:12 useful to the industry as a whole, but it is		
	37:13 extremely useful to the individual who is going		
	37:14 bankrupt.		
	37:15 There's always the individual --		
	37:16 individual's needs as opposed to the industry's		
	37:17 needs.		
37:18 - 37:21	Bell, Donald 2013-08-20	00:00:08	Bell_Final.31
	37:18 Q. Now, are these points about cage density		
	37:19 that you were just making ones that you communicated		
	37:20 to UEP and its members?		
	37:21 A. All the time --		
37:23 - 38:03	Bell, Donald 2013-08-20	00:00:22	Bell_Final.32
	37:23 THE WITNESS: All the time, yes.		
	37:24 BY MR. OLSON:		
	37:25 Q. And it would be fair to say that -- that		
	38:01 you recognize, based on your work for the industry,		
	38:02 that one way UEP members could manage egg supply was		
	38:03 by adopting guidelines relating to cage density?		
38:05 - 38:08	Bell, Donald 2013-08-20	00:00:11	Bell_Final.33
	38:05 THE WITNESS: Yes.		
	38:06 BY MR. OLSON:		
	38:07 Q. And one way of adopting those guidelines		
	38:08 would be to adopt welfare guidelines?		
38:10 - 38:17	Bell, Donald 2013-08-20	00:00:32	Bell_Final.34
	38:10 THE WITNESS: Welfare guidelines is a broad		
	38:11 series of management tools that does not just		
	38:12 include cage density, but cage density is one of the		
	38:13 issues that can contribute to this.		
	38:14 So -- go ahead.		
	38:15 BY MR. OLSON:		
	38:16 Q. And one of the things that welfare		
	38:17 guidelines could be used for is to manage supply?		
38:19 - 38:24	Bell, Donald 2013-08-20	00:00:25	Bell_Final.35
	38:19 THE WITNESS: That is an outcome of		
	38:20 managing cage density, would be to manage the flock		
	38:21 size, but it's also a way of managing the flock's		
	38:22 health and welfare and other issues that are in		
	38:23 demand by the industry, by the people associated		
	38:24 with the industry.		

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DESIGNATION	SOURCE	DURATION	ID
39:01 - 39:18	Bell, Donald 2013-08-20	00:00:48	Bell_Final.36
39:01	Q. Now, you -- we were talking about factors		
39:02	that impact national egg supply and we've been		
39:03	talking about cage density.		
39:04	I take it, as a result of your work in the		
39:05	industry, you identified other factors that would		
39:06	affect national egg supply; is that right?		
39:07	A. Yes.		
39:08	Q. And let me identify a factor, and you let		
39:09	us know if it's one you identified as playing a		
39:10	major role --		
39:11	A. Yes.		
39:12	Q. -- in affecting national egg production.		
39:13	The degree of flock recycling, is that a		
39:14	factor?		
39:15	A. Yes.		
39:16	Q. And that refers to the molting process,		
39:17	correct?		
39:18	A. Recycling means molting, yes.		
39:19 - 39:21	Bell, Donald 2013-08-20	00:00:11	Bell_Final.37
39:19	Q. And as part of your work, you recognized		
39:20	that molting could be a way of impacting national		
39:21	egg production?		
39:23 - 40:02	Bell, Donald 2013-08-20	00:00:18	Bell_Final.38
39:23	THE WITNESS: That would not be the goal of		
39:24	anything I've ever done on molting. The goal of		
39:25	using molting is to reduce costs and, therefore,		
40:01	improve margins for the individual producers.		
40:02	BY MR. OLSON:		
40:03 - 40:12	Bell, Donald 2013-08-20	00:00:25	Bell_Final.39
40:03	Q. But you recognize that molting also		
40:04	affected output, right?		
40:05	A. Everything affects output.		
40:06	Q. Molting does?		
40:07	A. Go ahead with the rest of them, but		
40:08	everything affects output.		
40:09	Q. Including molting, right?		
40:10	A. Yes, up and down.		
40:11	Q. But, in general, your work indicated to you		
40:12	that using molting affected output down?		

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DESIGNATION	SOURCE	DURATION	ID
40:15 - 40:21	Bell, Donald 2013-08-20	00:00:26	Bell_Final.40
40:15	Q. Right?		
40:16	A. One of the outcomes of the replacement		
40:17	program which includes molting, is average egg		
40:18	production will be less.		
40:19	Q. And were there times when UEP, as part of		
40:20	its efforts to address supply issues, would		
40:21	recommend early molting programs to its members?		
40:25 - 41:04	Bell, Donald 2013-08-20	00:00:12	Bell_Final.41
40:25	Q. To your knowledge?		
41:01	A. Yes.		
41:02	Q. And what is the purpose of recommending an		
41:03	early molting program in order -- how does that		
41:04	relate to managing supply?		
41:06 - 41:23	Bell, Donald 2013-08-20	00:01:07	Bell_Final.42
41:06	THE WITNESS: When you molt chickens, that		
41:07	particular flock goes to zero production. And if		
41:08	the country is overproducing, then a number of		
41:09	farmers going to zero production over given a period		
41:10	of time is beneficial to the industry because it		
41:11	reduces egg numbers.		
41:12	BY MR. OLSON:		
41:13	Q. Is there an additional way that molting can		
41:14	be used to manage supply, other than that period		
41:15	when there is zero production?		
41:16	A. The average rate of lay would be about 10		
41:17	percent less year in, year out.		
41:18	And if we have 10 percent too many		
41:19	chickens, that's one way of remedying that problem.		
41:20	Q. So would it be fair to say that in times of		
41:21	low margins in the egg industry, molting can make		
41:22	economic sense?		
41:23	A. Absolutely, yes, yes.		
42:02 - 42:17	Bell, Donald 2013-08-20	00:00:41	Bell_Final.43
42:02	Q. Now, as far as other factors that affect		
42:03	the size of national egg production, how about the		
42:04	age of hens?		
42:05	A. Yes.		
42:06	Q. How does that affect the size of national		

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	42:07 egg production?		
	42:08 A. Well, the older the chickens, the fewer the		
	42:09 eggs.		
	42:10 And so if you do molt, you're going to		
	42:11 increase their average age by 30 or 40 weeks, which		
	42:12 is considerable. Or if you let your flocks go		
	42:13 without molting, you're going to keep them for a		
	42:14 longer period without molting, and so the same thing		
	42:15 is going to happen.		
	42:16 Q. And how about the use of exports, can that		
	42:17 have a large impact on national egg production?		
42:19 - 42:19	Bell, Donald 2013-08-20	00:00:02	Bell_Final.44
	42:19 THE WITNESS: Yes.		
43:25 - 44:22	Bell, Donald 2013-08-20	00:01:18	Bell_Final.45
	43:25 Now, based on your work in the egg		
	44:01 industry, you understood that the egg industry could		
	44:02 make more money with fewer birds, right?		
	44:03 A. Yes.		
	44:04 Q. That's something you mentioned before		
	44:05 today, right?		
	44:06 A. Yes.		
	44:07 Q. And that's a fact that you would stress to		
	44:08 UEP and its members?		
	44:09 A. Yes.		
	44:10 Q. Now, as part of your work for the egg		
	44:11 industry, did you also come to understand that		
	44:12 increasing floor space allowances could be difficult		
	44:13 for an individual producer on its own to justify?		
	44:14 A. Yes.		
	44:15 Q. Because if a producer just increases floor		
	44:16 space allowances on its own, that might reduce its		
	44:17 profits, right?		
	44:18 A. Reduces volume of production, yes.		
	44:19 Q. But did you also recognize that increasing		
	44:20 floor space allowances could be justified for a		
	44:21 producer if it knew that a significant number of		
	44:22 other producers were also going to do it?		
44:25 - 45:16	Bell, Donald 2013-08-20	00:01:01	Bell_Final.46
	44:25 THE WITNESS: First of all, if you take the		
	45:01 range of modifying your density from low to high,		

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DESIGNATION	SOURCE	DURATION	ID
	45:02 you can go too far on either end, too few or too		
	45:03 many.		
	45:04 My concern in evaluating this is what does		
	45:05 it return for dollar invested. And four birds in a		
	45:06 three-bird cage is too many, one or two birds is too		
	45:07 few. So the answer is yes and no.		
	45:08 To the individual, the industry is mainly		
	45:09 interested in modifying the total population, and		
	45:10 they have to have individual people to cooperate and		
	45:11 do that.		
	45:12 BY MR. OLSON:		
	45:13 Q. But I just want to focus on this problem of		
	45:14 increasing floor space allowances across the		
	45:15 industry.		
	45:16 A. Sure.		
50:16 - 50:22	Bell, Donald 2013-08-20	00:00:12	Bell_Final.47
	50:16 BY MR. OLSON:		
	50:17 Q. Do you recall making a recommendation that		
	50:18 UEP take a stronger stand on the issue of space		
	50:19 allowances?		
	50:20 A. Sure, yes.		
	50:21 Q. And what was the reason for that		
	50:22 recommendation?		
50:24 - 51:08	Bell, Donald 2013-08-20	00:00:46	Bell_Final.48
	50:24 THE WITNESS: Because I know that if we		
	50:25 reduce the number of birds in the United States,		
	51:01 that the egg producers in the United States will		
	51:02 have a more profitable relationship, set of results.		
	51:03 I've looked at costs and income and profits		
	51:04 for 55 years, and I've done studies every year for		
	51:05 55 years, so I feel like I have a feel for the		
	51:06 general health of this industry. And, therefore, I		
	51:07 think I'm entitled to use my experience to make		
	51:08 recommendations.		
58:23 - 59:14	Bell, Donald 2013-08-20	00:01:16	Bell_Final.49
	58:23 And if you allow 67 square inches -- are		
	58:24 you familiar with that number?		
	58:25 BY MR. OLSON:		
	59:01 Q. Yes.		
	59:02 A. And Don Bell says you should give them 72,		

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DESIGNATION	SOURCE	DURATION	ID
	59:03 you know there's -- or the other direction, that you		
	59:04 can affect it up or down, the results, because		
	59:05 Don Bell is not going to say that 72 is the number,		
	59:06 nor is the welfare committee or anything like that.		
	59:07 So I hope, in my discussions with UEP, that		
	59:08 the principles will be on the table and that we will		
	59:09 give an equal fairness to too many chickens or too		
	59:10 few chickens, because they are both involved.		
	59:11 Q. And would it be fair to say that you		
	59:12 recognized at some point that the primary way to		
	59:13 reduce nationwide chick hatch was through a		
	59:14 long-term cage space program?		
59:16 - 60:20	Bell, Donald 2013-08-20	00:01:44	Bell_Final.50
	59:16 THE WITNESS: Cage space program, is that		
	59:17 what you said?		
	59:18 Hatches hasn't even come into the		
	59:19 discussion yet, so you brought it in there.		
	59:20 BY MR. OLSON:		
	59:21 Q. Okay. Sorry. We're just talking about		
	59:22 nationwide egg production.		
	59:23 Would it be fair to say that, based on your		
	59:24 work, at a certain point you recognized that the		
	59:25 primary way the industry could manage nationwide egg		
	60:01 production was to use a long-term cage space		
	60:02 program?		
	60:03 A. That's one of the easiest ways, easiest to		
	60:04 demonstrate.		
	60:05 Q. Just to pause there, do you recall		
	60:06 approximately when you reached the conclusion that		
	60:07 that would be one of the easiest ways to accomplish		
	60:08 that goal?		
	60:09 A. Well, the question of optimum cage space,		
	60:10 one of the outcomes is it is going to change the		
	60:11 volume of eggs. And we've already discussed the		
	60:12 volume of egg relationship to egg price.		
	60:13 So the very first experiment I did in the		
	60:14 early '60s that showed a dramatic difference in egg		
	60:15 numbers, but from the same cage, that's the start of		
	60:16 a 55-year recommendation, and it still exists today.		
	60:17 Q. And was there a time when you concluded		

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DESIGNATION	SOURCE	DURATION	ID
	60:18 that in the United States an industry-wide program		
	60:19 involving cage space guidelines was the best way to		
	60:20 manage U.S. egg supply?		
60:22 - 61:06	Bell, Donald 2013-08-20	00:00:29	Bell_Final.51
	60:22 THE WITNESS: It would result -- it would		
	60:23 get results the fastest, it would be the easiest to		
	60:24 apply, but everyone wouldn't be in agreement with		
	60:25 it.		
	61:01 BY MR. OLSON:		
	61:02 Q. And were these concepts about that type of		
	61:03 approach being fast and easy to apply ones that you		
	61:04 discussed with UEP and its officials from time to		
	61:05 time?		
	61:06 A. Yes, uh-huh.		
62:04 - 63:12	Bell, Donald 2013-08-20	00:02:14	Bell_Final.52
	62:04 Q. Now, before the break, this concept		
	62:05 of chick hatch came up. Now, is one way to reduce		
	62:06 egg supply focusing on reducing chick hatch?		
	62:07 A. Yes.		
	62:08 Q. And what is -- generally speaking, what is		
	62:09 chick hatch reduction?		
	62:10 A. Chick hatch is adult chickens six months		
	62:11 pre, prior to the adult chicken. So it takes six		
	62:12 months to grow. So if you have an indication that		
	62:13 you have an increase in chick hatch, this is also an		
	62:14 indication you're going to have more adult chickens		
	62:15 six months later.		
	62:16 And so it was given a lot of attention in		
	62:17 earlier years, the direction of chick hatch, but		
	62:18 there are so many factors -- if a person is going		
	62:19 broke, he doesn't buy as many chicks, and that's the		
	62:20 same as the total volume, it's the whole industry.		
	62:21 If the industry is in trouble, they won't buy as		
	62:22 many chicks. They don't buy as many chicks, and		
	62:23 that's what gives us cycles. The cycle in the		
	62:24 industry is about five years, and that's why we talk		
	62:25 about five-year averages, because that's the period		
	63:01 of time when you have to consider all these issues.		
	63:02 Q. And was this a challenge in the industry,		
	63:03 how to try to address the cyclical nature of chick		


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DESIGNATION	SOURCE	DURATION	ID
	63:04 hatch and egg production?		
	63:05 A. It is a cyclical fact of life, and you		
	63:06 can -- I've got charts I've used in my speeches		
	63:07 where you can see a profitable industry, too many		
	63:08 chicks, too many adults, too many eggs, an		
	63:09 unprofitable industry and then back around.		
	63:10 And so this has got to be realized, because		
	63:11 it is a cyclic industry. You can't just look at one		
	63:12 year at a time and say it means anything.		
65:10 - 65:20	Bell, Donald 2013-08-20	00:00:21	Bell_Final.53
	65:10 Q. All right. Let's talk about the --		
	65:11 actually, another issue came up before the break.		
	65:12 You were talking about cage sizes, and you mentioned		
	65:13 67 inches versus 72 inches.		
	65:14 A. Right.		
	65:15 Q. Now, you were a member of the Scientific		
	65:16 Advisory Committee, correct?		
	65:17 A. Yes.		
	65:18 Q. Why didn't the Scientific Advisory		
	65:19 Committee just insist on a minimum of 72 inches for		
	65:20 every hen?		
65:22 - 66:12	Bell, Donald 2013-08-20	00:00:51	Bell_Final.54
	65:22 THE WITNESS: The optimum numbers battered		
	65:23 around the industry worldwide and the United States		
	65:24 varies from 150 inches to 50 inches. So the		
	65:25 committee -- now we're talking about the industry		
	66:01 advisory committee, right?		
	66:02 BY MR. OLSON:		
	66:03 Q. We'll call it the Scientific Advisory		
	66:04 Committee --		
	66:05 A. Scientific, that's fine.		
	66:06 Several people were assigned this question,		
	66:07 to take a look at the research.		
	66:08 Well, the research is just enormous on this		
	66:09 question. And all the answers aren't the same.		
	66:10 Q. But no one is really -- there's no		
	66:11 reputable research saying 50 inches is optimal for		
	66:12 the welfare of hens, is there?		
66:14 - 67:15	Bell, Donald 2013-08-20	00:01:31	Bell_Final.55
	66:14 THE WITNESS: I said economically optimal.		





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DESIGNATION	SOURCE	DURATION	ID
66:15	BY MR. OLSON:		
66:16	Q. Oh, economically optimal? Understood.		
66:17	A. Most of the research went on pre humane		
66:18	society, if you understand what I'm talking about.		
66:19	All the research that went on before that had to do		
66:20	with production efficiencies, economics, how many		
66:21	eggs, you know, mortality, all those things.		
66:22	The human society insisted that you needed		
66:23	to bring in welfare issues, such as frustration,		
66:24	peck order, a totally different ball game than I was		
66:25	involved with.		
67:01	We had measurable things. I don't know		
67:02	whether you're frustrated right this moment or not,		
67:03	you see, we're supposed to do that with the chicken.		
67:04	I can't tell humans if they are frustrated or if		
67:05	you're high on the peck order or low on the peck		
67:06	order. But there is about 20 different behavioral		
67:07	characteristics that the scientists who work in that		
67:08	area are concerned about.		
67:09	Well, on the advisory committee we had one		
67:10	or two that had that background. I didn't have that		
67:11	background. I didn't -- I was only interested in		
67:12	egg numbers, egg size, mortality and what it all		
67:13	meant economically.		
67:14	Q. And is that why you were chosen for the		
67:15	Scientific Advisory Committee, to your knowledge?		
67:17 - 68:19	Bell, Donald 2013-08-20	00:01:16	Bell_Final.56
67:17	THE WITNESS: I was asked to be on the		
67:18	committee by UEP.		
67:19	BY MR. OLSON:		
67:20	Q. By who at UEP?		
67:21	A. Good question. Gene or Al, I'm not sure		
67:22	which. The rest of the committee was appointed by		
67:23	the appointed chair.		
67:24	Q. And what do you recall about being asked by		
67:25	UEP to be on the committee?		
68:01	A. What do I recall?		
68:02	Q. I mean, do you recall the conversation, do		
68:03	you recall how it happened, do you recall anything		
68:04	about it?		

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DESIGNATION	SOURCE	DURATION	ID
	68:05 A. No. It's just a long-term relationship		
	68:06 with these people, all the way to the farmer, that		
	68:07 they endorsed me to be on the committee and they		
	68:08 wished me to be on the committee because of my		
	68:09 experience.		
	68:10 Q. Your experience with economic issues?		
	68:11 A. All issues, all the welfare issues, except		
	68:12 for these frustration issues, yeah.		
	68:13 Q. That's what I want to understand.		
	68:14 A. I mean, density, molting, beak trimming,		
	68:15 housing, all those issues.		
	68:16 Q. If we talk about density, for example --		
	68:17 A. Sure.		
	68:18 Q. -- did you have experience on how density		
	68:19 would affect the welfare of the chicken?		
68:22 - 69:08	Bell, Donald 2013-08-20	00:00:23	Bell_Final.57
	68:22 THE WITNESS: It is what you include in the		
	68:23 welfare.		
	68:24 As far as frustration is concerned, no. As		
	68:25 far as egg numbers are concerned, yes. As far as		
	69:01 mortality -- mortality is a welfare issue, and		
	69:02 mortality, yes.		
	69:03 BY MR. OLSON:		
	69:04 Q. Okay. So your experience with those types		
	69:05 of issues that you --		
	69:06 A. Measurable issues.		
	69:07 Q. Measurable and economic issues?		
	69:08 A. Yes. Together, yes.		
69:25 - 70:03	Bell, Donald 2013-08-20	00:00:10	Bell_Final.58
	69:25 Q. Isn't the scientific consensus that for a		
	70:01 hen just to stretch out its wings it needs a minimum		
	70:02 of 72 inches? No?		
	70:03 A. No.		
70:21 - 71:20	Bell, Donald 2013-08-20	00:00:43	Bell_Final.59
 272.1.3	70:21 Q. Let me hand you what we marked Bell 3.		
	70:22 This was previously Gregory 6.		
	70:23 A. Thank you.		
	70:24 Q. It is a United Voices publication.		
	70:25 Mr. Bell, did you receive United Voices		
	71:01 publications?		

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DESIGNATION	SOURCE	DURATION	ID
 272.1.4	71:02 A. Yes. 71:03 Q. All right. And this publication is dated 71:04 February 22nd, 1999. 71:05 Do you see that? 71:06 A. Yes.		
 272.1.1	71:07 Q. And it refers to -- 71:08 A. The first meetings. 71:09 Q. -- the first meeting, the February 12th and 71:10 13th? 71:11 A. Yes. 71:12 Q. Does that refresh your recollection about 71:13 when you started? 71:14 A. Yes.		
 272.1.2	71:15 Q. Now, this has a list of the members of the 71:16 Scientific Advisory Committee on the right-hand 71:17 side -- 71:18 A. Yes. 71:19 Q. -- do you see that?		
 Clear	71:20 A. Yes.		
73:08 - 74:07	Bell, Donald 2013-08-20 73:08 Q. So you served on that committee over 73:09 approximately early 1999 through July 2009, correct? 73:10 A. Sounds like ten years, right. 73:11 Q. About ten years. 73:12 During the period that you served on the 73:13 Scientific Advisory Committee, were you paid any 73:14 form of compensation by UEP? 73:15 A. I believe all I received was expenses to go 73:16 to the meetings, because I had no funds otherwise. 73:17 Q. Mr. Bell, isn't it the case that you were 73:18 paid by UEP -- 73:19 A. Oh, I was on retainer, of course. 73:20 Q. That's what I want to talk about. 73:21 A. You didn't ask it that way. 73:22 Q. Oh, sorry. 73:23 So during this period -- during most of the 73:24 period you were on the Scientific Advisory 73:25 Committee, you were on retainer by UEP? 74:01 A. Yes. 74:02 Q. And as part of that retainer, you were paid	00:01:04	Bell_Final.60

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DESIGNATION	SOURCE	DURATION	ID
	74:03 approximately \$15,000 a year, correct?		
	74:04 A. Approximately, yes.		
	74:05 Q. Okay. And you received compensation to		
	74:06 attend Scientific Advisory Committee meetings as		
	74:07 well?		
74:10 - 74:21	Bell, Donald 2013-08-20	00:00:31	Bell_Final.61
	74:10 THE WITNESS: Expenses were the only		
	74:11 additional to my retainer fee. My retainer fee paid		
	74:12 for about two days of my time a month, and I gave		
	74:13 them a lot more than two days.		
	74:14 BY MR. OLSON:		
	74:15 Q. So when you say "expenses," you're		
	74:16 referring to things like travel expenses?		
	74:17 A. To get to Chicago, or wherever it was.		
	74:18 Q. As part of your work for UEP during that		
	74:19 period, you were -- did you also go on other trips		
	74:20 unrelated to the Scientific Advisory Committee?		
	74:21 A. Other trips?		
74:24 - 74:24	Bell, Donald 2013-08-20	00:00:01	Bell_Final.62
	74:24 THE WITNESS: About 400 of them.		
75:01 - 75:05	Bell, Donald 2013-08-20	00:00:10	Bell_Final.63
	75:01 Q. And UEP would compensate you for		
	75:02 those --		
	75:03 A. No, no, no. The inviter would pay my		
	75:04 expenses to go to other meetings. That's the		
	75:05 question you asked.		
76:12 - 76:20	Bell, Donald 2013-08-20	00:00:17	Bell_Final.64
	76:12 Q. Now, let's talk about, particularly, the		
	76:13 early years of the committee. How often would the		
	76:14 committee meet, generally?		
	76:15 A. Oh, I don't think more than twice a year,		
	76:16 maybe.		
	76:17 Q. And would those be in-person meetings?		
	76:18 A. In person?		
	76:19 Q. Yes.		
	76:20 A. Always.		
78:05 - 78:06	Bell, Donald 2013-08-20	00:00:04	Bell_Final.65
	78:05 Q. Would a representative from UEP attend the		
	78:06 meetings?		






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DESIGNATION	SOURCE	DURATION	ID
78:08 - 78:14	Bell, Donald 2013-08-20	00:00:12	Bell_Final.66
	78:08 THE WITNESS: Most or all.		
	78:09 BY MR. OLSON:		
	78:10 Q. Was that Gene Gregory?		
	78:11 A. Most or all.		
	78:12 Q. Did you have an understanding of why		
	78:13 Mr. Gregory attended the Scientific Advisory		
	78:14 Committee meetings?		
78:17 - 78:24	Bell, Donald 2013-08-20	00:00:25	Bell_Final.67
	78:17 THE WITNESS: Yes.		
	78:18 BY MR. OLSON:		
	78:19 Q. What was your understanding?		
	78:20 A. Wanted to see how we were progressing on a		
	78:21 multitude of topics. Not just animal welfare, per		
	78:22 se, not just the cage density, per se, but the total		
	78:23 assignment of recommending the ways we handle our		
	78:24 chickens.		
78:25 - 79:07	Bell, Donald 2013-08-20	00:00:30	Bell_Final.68
	78:25 Q. And would Mr. Gregory participate in the		
	79:01 discussion of -- that occurred at these meetings?		
	79:02 A. I think he took a pretty low key -- he		
	79:03 didn't want to interfere with what we said, or he		
	79:04 certainly wouldn't tell us what to say. We were a		
	79:05 bunch of people who each had 20, 30, 40 years of		
	79:06 experience doing research and communications and so		
	79:07 on, and I think he took a back seat.		
79:17 - 80:01	Bell, Donald 2013-08-20	00:00:37	Bell_Final.69
	79:17 Q. And would he share those views from time to		
	79:18 time at the meetings?		
	79:19 A. With the committee?		
	79:20 Q. Yes.		
	79:21 A. He might report back to us that the UEP		
	79:22 board of directors or their Animal Welfare Committee		
	79:23 thinks you're being too hard on your recommendations		
	79:24 or that you haven't discussed this part of the		
	79:25 recommendation. Sure, he would have comments, but		
	80:01 that wasn't -- that wasn't the big feature.		
80:02 - 80:09	Bell, Donald 2013-08-20	00:00:16	Bell_Final.70
	80:02 Q. Now, as part of your work on the Scientific		

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DESIGNATION	SOURCE	DURATION	ID
	80:03 Advisory Committee, did you believe it was important		
	80:04 to be practical and realistic about the changes egg		
	80:05 producers were asked to make?		
	80:06 A. I'm always that way, yes.		
	80:07 Q. And you were that way on the committee as		
	80:08 well?		
	80:09 A. Yes.		
80:10 - 80:14	Bell, Donald 2013-08-20	00:00:11	Bell_Final.71
	80:10 Q. Did you believe, as part of your work on		
	80:11 that committee, that it was important to consider		
	80:12 how any changes would impact the profitability of		
	80:13 the industry?		
	80:14 A. Absolutely, yes.		
92:05 - 92:06	Bell, Donald 2013-08-20	00:00:03	Bell_Final.72
 260.1.6	92:05 Q. All right. Let me hand you what we marked		
	92:06 Bell 6.		
92:07 - 92:14	Bell, Donald 2013-08-20	00:00:19	Bell_Final.73
 260.1.7	92:07 So I'm really just focused on the first		
	92:08 page. I'll identify this as a document --		
	92:09 A. Which one is the first page? It says June		
	92:10 29th?		
	92:11 Q. No, the July 1, 1999.		
	92:12 A. That's the second one.		
	92:13 Q. It is Bates-stamped BELL-D-00026787 through		
	92:14 -88.		
92:15 - 93:11	Bell, Donald 2013-08-20	00:00:53	Bell_Final.74
	92:15 A. Okay.		
 260.1	92:16 Q. Mr. Bell, can you identify this as a fax		
	92:17 correspondence you received from Gene Gregory on		
	92:18 July 1, 1999?		
	92:19 A. Yes, that's one that I received, yes.		
 260.1.2	92:20 Q. And it refers to an emergency meeting of		
 260.1.3	92:21 UEP's marketing committee.		
	92:22 Do you see that?		
	92:23 A. Yes, I see that.		
 260.1.2	92:24 Q. From time to time did you attend meetings		
	92:25 of UEP's marketing committee?		
	93:01 A. I can't recall.		
 260.1.5	93:02 Q. Mr. Gregory asks, in connection with that		




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DESIGNATION	SOURCE	DURATION	ID
	93:03 upcoming meeting, that you and Mr. Schrader prepare		
	93:04 something for UEP.		
	93:05 Do you see that?		
	93:06 A. Yes.		
	93:07 Q. And he describes it as a 12-month supply		
	93:08 plan to meet the market needs that provides a		
	93:09 reasonable return on investment.		
	93:10 Do you see that?		
 Clear	93:11 A. Yes, uh-huh.		
94:01 - 94:02	Bell, Donald 2013-08-20	00:00:03	Bell_Final.75
 328.1.2	94:01 Q. All right. Well, let me hand you what we		
	94:02 marked Bell 7.		
94:03 - 94:22	Bell, Donald 2013-08-20	00:00:44	Bell_Final.76
 328.1.1	94:03 A. Okay.		
	94:04 That's from me.		
	94:05 Q. And you see it is dated the next day?		
	94:06 A. That's a pretty good response, isn't it?		
	94:07 Q. It's fast work.		
	94:08 So let me identify this for the record as		
	94:09 Bates stamp BELL007698 through -7709.		
	94:10 A. These are right out of my regular		
	94:11 newsletter.		
	94:12 Q. Okay. Well, first, can you just identify		
	94:13 this document as one that you sent to --		
	94:14 A. Yes.		
	94:15 Q. -- Mr. Gregory on July 2nd, 1999, right?		
	94:16 A. Yes.		
	94:17 Q. And at the beginning you have some tables,		
	94:18 and those are the ones you're saying are right out		
	94:19 of your newsletter?		
	94:20 A. Yes.		
	94:21 Q. And if you keep paging through and get		
	94:22 through --		
94:23 - 96:12	Bell, Donald 2013-08-20	00:01:22	Bell_Final.77
 328.11	94:23 A. The last page?		
	94:24 Q. -- the second-to-the-last page --		
	94:25 A. Right.		
 328.11.6	95:01 Q. -- it is titled, "Estimated Break-even		
	95:02 Beginning Hen Inventory for 1999" --		
	95:03 A. Yes.		



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DESIGNATION	SOURCE	DURATION	ID
	95:04 Q. -- "to 2000 for Break-even or Better		
	95:05 Situation."		
	95:06 Do you see that?		
	95:07 A. Yes.		
	95:08 Q. Have you reviewed this page?		
	95:09 A. No, I haven't read it, but it's, obviously,		
	95:10 an editorial add-on to the statistics pages.		
	95:11 Q. Okay.		
	95:12 A. So he asked us for the statistics and the		
	95:13 plan, and I sent him what was immediately available,		
	95:14 and in one day that is pretty fast. And the rest of		
	95:15 it I sat down at probably 3:00 in the morning and		
	95:16 typed out my editorial about that.		
	95:17 Q. Okay.		
	95:18 A. And I haven't read it in years, so I don't		
	95:19 know --		
	95:20 Q. All right. Let's look at that page.		
	95:21 A. Okay. Go ahead.		
	95:22 Q. You're talking about how to achieve a		
	95:23 break-even or better situation?		
	95:24 A. Uh-huh.		
	95:25 Q. So that means either break even or make		
	96:01 some profits, right?		
	96:02 A. That's what it says, yeah.		
 328.11.8	96:03 Q. Okay. If you look at the opening sentences		
	96:04 do you see where you say, "Correction in the size of		
	96:05 the nation's layer flock can be obtained by one of		
	96:06 several ways"?		
	96:07 A. Yes.		
	96:08 Q. And then under that you give four different		
	96:09 ways that the egg industry can correct the size of		
	96:10 its flock, right?		
	96:11 A. I have to read that.		
	96:12 Q. Please do. Let me know when you're done.		
96:13 - 97:13	Bell, Donald 2013-08-20	00:00:59	Bell_Final.78
	96:13 A. Yeah, I read the four of them, yes.		
	96:14 Q. So you're giving four ways of correcting		
	96:15 the size of the nation's -- four ideas?		
	96:16 A. Right.		
	96:17 Q. And what's going on here is the industry is		


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DESIGNATION	SOURCE	DURATION	ID
	96:18 facing extremely low egg prices --		
	96:19 A. I assume so.		
	96:20 Q. Well, in fact, you say that, right?		
	96:21 A. Okay. I said it, that's fine.		
 328.11.3	96:22 Q. "Extremely low egg prices," so your idea is		
	96:23 to change supply to correct that problem, right?		
	96:24 A. Yes.		
 328.11.4	96:25 Q. Just looking at number 2, it says, "Extra		
	97:01 birds must be removed from the nation's flock		
	97:02 permanently."		
	97:03 A. Yes.		
	97:04 Q. What were you referring to there?		
	97:05 A. Surplus birds, over demand.		
	97:06 Q. Do what with surplus birds?		
	97:07 A. Get rid of them.		
	97:08 Q. How do you do them?		
	97:09 A. Kill them.		
	97:10 Q. Mr. Bell, do you find any irony in the fact		
	97:11 that while you were a member of the Scientific		
	97:12 Advisory Committee you were recommending just		
	97:13 disposing of hens?		
97:16 - 101:20	Bell, Donald 2013-08-20	00:05:23	Bell_Final.79
	97:16 THE WITNESS: No, I have never been able to		
	97:17 separate my brain into 20 percent and 80 percent, so		
	97:18 I'm me. And you get the whole thing. I'm either on		
	97:19 the committee or my day-by-day life. Since I'm paid		
	97:20 for two days of my time, I think I have 20 other		
	97:21 days that I can do whatever I want and think		
	97:22 whatever I want, write whatever I want, communicate.		
	97:23 Okay? So, no, I don't -- I think this is totally		
	97:24 within my realm.		
	97:25 BY MR. OLSON:		
 328.11.5	98:01 Q. Number 4 refers to an industry-wide policy		
	98:02 of a minimum floor space allowance that would result		
	98:03 in a more ideal national flock size?		
	98:04 A. Right.		
	98:05 Q. And that was a suggestion that you were		
	98:06 making at this time for UEP?		
	98:07 A. Yeah.		
	98:08 Q. And, in fact, UEP ended up adopting that?		

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DESIGNATION	SOURCE	DURATION	ID
 328.11.7	98:09 A.	No. The 48 inches at that time was what 15	
	98:10	to 20 percent of the birds were kept, at less than	
	98:11	48 inches.	
	98:12	So I suggested here that if 48 were adopted	
	98:13	as the minimum space allowance, but you know what	
	98:14	happened is it became 67 eventually.	
	98:15 Q.	It became a higher number?	
	98:16 A.	Yeah.	
	98:17 Q.	Right.	
	98:18 A.	And I've recommended early stages 72. 72	
	98:19	square inches -- early stages of a recommendation,	
	98:20	but those recommendations change.	
	98:21 Q.	But putting the specific numbers aside, the	
	98:22	gist of the recommendation here was to adopt a	
	98:23	minimum floor space allowance to help the	
	98:24	profitability of the industry?	
	98:25 A.	Of course, yes.	
	99:01 Q.	And the suggestion, as it's laid out here,	
	99:02	doesn't relate to animal welfare, right?	
	99:03 A.	I wouldn't say that.	
	99:04 Q.	Well, here there is no -- it's not being	
	99:05	suggested --	
	99:06 A.	The word isn't used in there, not being	
	99:07	used in the text.	
	99:08 Q.	The outcome of this suggestion is an	
	99:09	economic one?	
 328.12.3	99:10 A.	That's what causes the suggestion, is that	
	99:11	the -- my experience with cage density shows that	
	99:12	that's an extreme that we shouldn't recommend.	
	99:13 Q.	Now, if you turn to the next page, this one	
	99:14	is entitled, "A Twelve Month Supply Plan to Meet the	
	99:15	Market Needs that Provides a Reasonable Return on	
	99:16	Investment."	
	99:17	Do you see that?	
	99:18 A.	Yes.	
	99:19 Q.	And that's specifically what Mr. Gregory	
	99:20	asked you to prepare, correct?	
	99:21 A.	That's part of the request, yes.	
	99:22 Q.	Do you recall other times that Mr. Gregory,	
	99:23	or others in UEP, requested you propose plans for	
	99:24	managing egg output?	

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DESIGNATION	SOURCE	DURATION	ID
	99:25 A. I would say frequently, because that was a		
	100:01 major issue, was that we have too many chickens. So		
	100:02 that's always going to be a question, that's always		
	100:03 going to be a target.		
 328.12.4	100:04 Q. And in this one, again, you suggest that		
	100:05 molting should be included as part of a national		
	100:06 program, because that results in a lower level of		
	100:07 egg production, right?		
	100:08 A. Yes, of course. Yes.		
 Clear	100:09 Q. Now, you talked about UEP making efforts to		
	100:10 persuade its members --		
	100:11 A. Uh-huh.		
	100:12 Q. -- and identified the newsletters		
	100:13 Mr. Gregory edited?		
	100:14 A. Uh-huh.		
	100:15 Q. Beyond the newsletters, to your knowledge,		
	100:16 what other types of efforts did UEP make to persuade		
	100:17 its members to manage egg supply?		
	100:18 A. Well, all of their programs are voluntary,		
	100:19 so I'm not just sure where voluntary comes into		
	100:20 persuasion.		
	100:21 You know, whether you reduce your bird		
	100:22 numbers, that was a voluntary decision on each		
	100:23 person's part.		
	100:24 Q. Were you ever at UEP meetings where members		
	100:25 were asked to sign commitment forms about following		
	101:01 programs, to your knowledge, to your recollection?		
	101:02 A. I don't recall it personally. Of course,		
	101:03 the progress of having people participate was		
	101:04 reported in their newsletters, that we now have		
	101:05 50 percent, we now have 70 percent, we now have		
	101:06 90 percent. And those -- that's all anybody really		
	101:07 needs to know.		
	101:08 Q. Why do you say that?		
	101:09 A. Because the rest of it is confidential		
	101:10 company information. I don't want you to know that		
	101:11 I'm participating or not participating.		
	101:12 Q. By name?		
	101:13 A. By name.		
	101:14 Q. But it's helpful to know that others are		
	101:15 participating?		








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DESIGNATION	SOURCE	DURATION	ID
	101:16 A. And that's where the 70 percent comes in, 101:17 the 80 percent comes in, yeah. 101:18 Q. And why is it helpful for an individual 101:19 producer to know that 70 percent or 80 percent of 101:20 others are participating?		
101:23 - 102:17	Bell, Donald 2013-08-20 101:23 THE WITNESS: You said that earlier. You 101:24 want to know you're in step. You want to know this 101:25 has a good chance of working. It starts out in 102:01 somebody's mind, and they put it down on paper and 102:02 they have a committee and eventually you get a -- 102:03 what do you call it? -- 102:04 BY MR. OLSON: 102:05 Q. Program? 102:06 A. No. 102:07 Q. Proposal? 102:08 A. Where everybody votes -- referendum. 102:09 You eventually have a referendum and you 102:10 may do a national referendum on some law, and laws 102:11 have been thrown out added to a national referendum. 102:12 But you don't want to put yourself out 102:13 there without having some idea what the industry is 102:14 doing as a whole. And I think that kind of a 102:15 progress that we now have 50, we now have 70, that's 102:16 enough to encourage people to say, well, I guess I 102:17 should get on board too.	00:01:08	Bell_Final.80
105:01 - 106:24	Bell, Donald 2013-08-20 105:01 Q. All right. Now I've handed you what we've 105:02 marked Gregory 8 -- Bell 8. Sorry. 105:03 A. Which one are we looking at? Molting? 105:04 Q. This is a UEP publication. Let me read the 105:05 Bates number into the record. 105:06 It is UE0064456 through -64459. It was 105:07 Gregory Exhibit 11. That's why I have Gregory on 105:08 the brain. 105:09 All right. Let me just first ask if you 105:10 can identify this as United Voices -- 105:11 A. That's their regular every two weeks, I 105:12 believe it is. 105:13 Q. And you received these generally, correct?	00:02:18	Bell_Final.81






1.1.2


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DESIGNATION	SOURCE	DURATION	ID
	105:14 A. I keep about half of them, throw half of		
	105:15 them away.		
	105:16 Q. All right. So if you look at beginning at		
 1.2	105:17 the bottom right of the second page there is a part		
 1.2.1	105:18 that said, "Roller Coaster Egg Price Quotes," and		
	105:19 maybe if you could just skim that --		
	105:20 A. Okay.		
 1.3	105:21 Q. -- and skim page 3.		
	105:22 A. Who wrote it?		
	105:23 Q. Well, I believe this is Mr. Gregory.		
	105:24 A. Him. Okay. Boy, that's a terrible --		
	105:25 there it is over there, market outlook.		
	106:01 Do I have to read the whole thing?		
	106:02 Q. If you just skim it.		
	106:03 A. Okay. Go ahead.		
	106:04 Q. Just the question is can you see that -- if		
 1.3.1	106:05 you look at the top right of page 3, Mr. Gregory		
 1.3.2	106:06 says, "You will also be asked if you would		
	106:07 participate in a supply adjustment program."		
	106:08 Do you see where it says that?		
	106:09 A. Yes, I see that.		
	106:10 Q. And then underneath do you see where		
	106:11 Mr. Gregory has reproduced the suggestions you made		
	106:12 about the corrections in the nation's flock size?		
 1.3.3	106:13 A. Yes.		
	106:14 Q. And it has those four including the		
	106:15 industry-wide policy of a --		
	106:16 A. Is this shortly after those other letters?		
	106:17 Q. It is the next month.		
	106:18 A. The next month. Okay. Go ahead.		
 1.3.4	106:19 Q. And it includes this one about the minimum		
	106:20 floor space allowance.		
	106:21 A. Uh-huh.		
	106:22 Q. Now, based on your knowledge of the		
	106:23 industry, do you have an understanding of who would		
	106:24 have received this type of document?		
107:01 - 107:18	Bell, Donald 2013-08-20	00:00:33	Bell_Final.82
	107:01 THE WITNESS: Are those four points the		
	107:02 same exact points that I had in my letter?		
	107:03 BY MR. OLSON:		


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DESIGNATION	SOURCE	DURATION	ID
	107:04 Q. Right.		
	107:05 A. Okay. Part of my editorial?		
	107:06 Q. Right.		
	107:07 A. Okay.		
	107:08 Q. So this is just a background question. I		
	107:09 mean, I take it you're aware that this United Voices		
	107:10 was sent to UEP members and even others?		
	107:11 A. Well, it's sent to their entire membership		
	107:12 list, to my knowledge, and I don't remember this		
	107:13 being a response to my earlier letter. I don't read		
	107:14 some of these things --		
	107:15 Q. So you don't recall seeing this at the		
	107:16 time?		
	107:17 A. I don't recall, but it is right out of		
	107:18 here, so it's okay.		
108:05 - 108:05	Bell, Donald 2013-08-20	00:00:03	Bell_Final.83
 256.1.7	108:05 Q. Let me hand you what we've marked Bell 9.		
108:06 - 108:07	Bell, Donald 2013-08-20	00:00:16	Bell_Final.84
	108:06 Why don't you briefly review this, please.		
	108:07 It is Bates-stamped BELL004041 through -42.		
108:19 - 108:25	Bell, Donald 2013-08-20	00:00:16	Bell_Final.85
 256.1.7	108:19 Q. Mr. Bell, can you identify Exhibit 9 as an		
	108:20 e-mail you wrote to what you were calling the Animal		
	108:21 Welfare Committee on December 22nd, 1999?		
	108:22 A. Yes, I do.		
 256.1	108:23 Q. This is what we called today the Scientific		
	108:24 Advisory Committee?		
	108:25 A. Yes.		
109:03 - 111:07	Bell, Donald 2013-08-20	00:02:40	Bell_Final.86
	109:03 Q. And what you discuss in this e-mail is the		
	109:04 issue of cage space and how much cage space the		
	109:05 committee should recommend generally, correct?		
	109:06 A. Yes.		
	109:07 Q. And you begin that discussion by saying,		
 256.1.2	109:08 "Even though the subject is mainly one on selecting		
	109:09 cage density based on current economic parameters,"		
	109:10 and you go on.		
	109:11 What were you referring to when you say,		
	109:12 "based on current economic parameters"?		

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DESIGNATION	SOURCE	DURATION	ID
	109:13 A. I think we probably were looking at		
	109:14 averages, which vary from year to year, as opposed		
	109:15 to a set of recommendations which would be over a		
	109:16 long time period. So I think that's probably the		
	109:17 emphasis there.		
	109:18 Q. But what economic parameters was the		
	109:19 committee considering in this regard?		
	109:20 A. That -- the committee, at that time, in		
	109:21 early sitting of the committee, would probably have		
	109:22 placed most of its emphasis on egg production and		
	109:23 mortality, and not until they were pressured into		
	109:24 welfare-type issues much later by the humane		
	109:25 society.		
	110:01 So I would assume that "current economic		
	110:02 parameters" means the cost of production and the		
	110:03 price of eggs.		
	110:04 Q. And one of the points you make here is that		
	110:05 in putting together the guidelines, the committee		
 256.1.4	110:06 needs to recognize that the egg producer is in		
	110:07 business to make a living, right?		
	110:08 A. Yes.		
	110:09 Q. And the Scientific Advisory Committee needs		
	110:10 to think about investments, cost, performance and		
	110:11 profits, and consider all those things in the		
	110:12 program that was going to be adopted, right?		
	110:13 A. I'm not finding your keywords.		
	110:14 Q. Oh, sorry. If you look at point 2.		
	110:15 A. Point 2 down here. Okay. Yes, I see it.		
	110:16 Okay.		
	110:17 Q. Point 2 and 3, what you're saying is when		
	110:18 the committee makes its recommendations, it needs to		
	110:19 consider that the egg producer is in business to		
	110:20 make a living and it needs to consider investments,		
	110:21 cost, performance and profits, right?		
	110:22 A. I guess there is a word -- "consider" or		
	110:23 "consideration" might need to be explained, but		
	110:24 that's what I wrote, so that's what they got.		
	110:25 "Consider" means one of many things that you have to		
	111:01 consider.		
	111:02 Q. Okay. But these are things that needed to		
	111:03 be considered --		




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DESIGNATION	SOURCE	DURATION	ID
 256.1	<p>111:04 A. Exactly.</p> <p>111:05 Q. -- in your view?</p> <p>111:06 And the committee did consider those</p> <p>111:07 things?</p>		
111:09 - 113:11	Bell, Donald 2013-08-20	00:02:45	Bell_Final.87
	<p>111:09 THE WITNESS: Among the welfare issues that</p> <p>111:10 we're primarily concerned with. The economics would</p> <p>111:11 be more important to me, probably, because, as I</p> <p>111:12 said, as a main reason people change is economic</p> <p>111:13 reasons. That's why they change anything, and we</p> <p>111:14 are talking about change here.</p> <p>111:15 BY MR. OLSON:</p>		
 256.1.5	<p>111:16 Q. And one of the points you make here in that</p> <p>111:17 regard is you thought an unrealistically high</p> <p>111:18 recommendation would fail to persuade anyone, right?</p> <p>111:19 A. Where did you read that now?</p> <p>111:20 Q. The third full paragraph.</p> <p>111:21 A. The third full paragraph.</p>		
 256.1.6	<p>111:22 Q. Do you see where you say, "I'm also</p> <p>111:23 concerned that an unrealistically high</p> <p>111:24 recommendation would fail to persuade anyone"?</p> <p>111:25 A. You're in the second part of that? Where</p> <p>112:01 are you in the third one? I can't see it in the</p> <p>112:02 third paragraph.</p> <p>112:03 Q. Do you see the paragraph that says, "I am</p> <p>112:04 primarily concerned"?</p> <p>112:05 A. Yes, okay.</p> <p>112:06 Q. The third sentence there.</p> <p>112:07 A. Oh, third sentence, you said "third</p> <p>112:08 paragraph."</p> <p>112:09 Q. It is the third sentence in the third</p> <p>112:10 paragraph.</p> <p>112:11 A. "I am also concerned." Okay. I was</p> <p>112:12 reading down here, number 3.</p> <p>112:13 Q. Do you see that?</p> <p>112:14 A. That's saying that if you allowed an acre</p> <p>112:15 of land for each chicken, that you wouldn't persuade</p> <p>112:16 anybody to make any changes, because you've given</p> <p>112:17 them way more than is required to satisfy the</p> <p>112:18 welfare.</p>		

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DESIGNATION	SOURCE	DURATION	ID
	112:19 Q. And, in fact, has this document refreshed 112:20 your recollection that at this time some on the 112:21 committee were thinking that 72 inches was the right 112:22 number? 112:23 A. Yes. 72 inches is sort of a magic number. 112:24 Because of the size of cages that were present at 112:25 the time, you divide the total space of the cage by 113:01 1, 2, 3 or 4, or some other number, and 72 comes out 113:02 a good, usable number. 113:03 Q. And you make the point on the second page 113:04 of this that you were against 72 square inches as a 113:05 number because it could not be economically 113:06 justified, right? 113:07 A. Yes. And it also goes back to the question 113:08 of a standard for everybody, 72 inches for you might 113:09 be the right number, for me it is the wrong number. 113:10 So we have methods of analyzing the issue for you 113:11 and for me separately.		
256.2.1	Bell, Donald 2013-08-20	00:00:20	Bell_Final.88
	113:12 And if we want to use something for the 113:13 entire industry, well, then, we'll develop a set of 113:14 parameters, and we'll say that that's too much or 113:15 that's too little. 113:16 Q. And you thought in coming up with the 113:17 parameters, the committee had to consider practical 113:18 issues and be realistic, right? 113:19 A. Absolutely, yes.		
113:20 - 114:01	Bell, Donald 2013-08-20	00:00:19	Bell_Final.89
Clear	113:20 Q. And not recommend practices that weren't 113:21 economically justified? 113:22 A. Especially in the next paragraph where it 113:23 says such as Economic Union of Europe to just copy 113:24 what they do verbatim and thinking that's going to 113:25 apply to the United States. That's a very important 114:01 statement.		
114:02 - 114:04	Bell, Donald 2013-08-20	00:00:13	Bell_Final.90
	114:02 And that's what we've done, we've adopted 114:03 some of their technology and management from Europe 114:04 word for word, and it's not for the United States.		

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DESIGNATION	SOURCE	DURATION	ID
116:18 - 117:07	Bell, Donald 2013-08-20	00:01:06	Bell_Final.91
 245.1.1	116:18 Q. Now let me hand you what's been marked Bell 116:19 11. 116:20 A. Thank you. Okay. 116:21 Q. This is a document entitled,		
 245.1	116:22 "Recommendations for UEP Animal Welfare Guidelines," 116:23 dated September 2000, Bates-stamped UE0208684 116:24 through -208703. 116:25 And can you generally identify this 117:01 document for us, Mr. Bell? 117:02 A. Well, it appears to be a set of guidelines 117:03 that the advisory committee gave to UEP, but I don't 117:04 know whether it was a final copy of this particular 117:05 document or whether it was -- the fact that it says 117:06 "confidential" at the bottom makes me think it was 117:07 an in-progress report.		
117:15 - 118:04	Bell, Donald 2013-08-20	00:00:33	Bell_Final.92
	117:15 Q. Let's just look at a couple -- but, 117:16 in any case, this document, to the extent it was the 117:17 final one, would have been the initial set of 117:18 recommendations? 117:19 A. It follows our first meeting in 1999, 117:20 right. 117:21 Q. Right. 117:22 A. So it would be -- I'm sure this is the 117:23 first document, quote unquote. 117:24 Q. That that was the official recommendations 117:25 of the Scientific Advisory Committee? 118:01 A. But I don't know how far this goes. Has 118:02 UEP accepted this at this point? 118:03 Q. Well, I can't answer that one for you. 118:04 A. Okay.		
119:24 - 120:10	Bell, Donald 2013-08-20	00:00:32	Bell_Final.93
 245.8	119:24 All right. If we look at the next heading, 119:25 this is the one that says, "Housing, Space 120:01 Allowances, and Environment." 120:02 A. On the page -- there we go. 120:03 Q. Do you see that heading? 120:04 A. Got it. 120:05 Q. Now, I take it, Mr. Bell, that with regard		



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DESIGNATION	SOURCE	DURATION	ID
	120:06 to housing, cage space density wasn't the only issue		
	120:07 the scientific committee thought was important?		
	120:08 A. I would hope not.		
	120:09 Q. The committee also thought feeder space was		
	120:10 important, right?		
120:12 - 121:06	Bell, Donald 2013-08-20	00:00:45	Bell_Final.94
	120:12 THE WITNESS: I personally did, because I		
	120:13 was -- I was one of the first ones to do work with		
	120:14 feeder space, and we demonstrated up to 6 inches.		
	120:15 But if you look at the final part of this thing, I'm		
	120:16 not sure whether we wound up with 4 inches or we		
	120:17 wound up with enough space for all the birds to eat		
	120:18 at the same time.		
	120:19 BY MR. OLSON:		
	120:20 Q. If you look -- go ahead and page towards		
 245.10.1	120:21 the recommendations, "Housing Recommendations For		
	120:22 Caged Hens for the UEP Guidelines"?		
	120:23 A. Where are we? Conclusion, or what?		
	120:24 "Housing Recommendations" -- go ahead.		
 245.10.2	120:25 Q. If you look at point 4 --		
	121:01 A. Go ahead.		
	121:02 Q. What does point 4 indicate about the		
	121:03 consensus of the Scientific Advisory Committee?		
	121:04 A. Well, it says 4 inches.		
	121:05 Q. Minimum 4 inches per bird?		
	121:06 A. Yes....		
122:05 - 122:11	Bell, Donald 2013-08-20	00:00:19	Bell_Final.95
 Clear	122:05 Q. And then you all signed off on the final?		
	122:06 A. We all signed off on the final. I don't		
	122:07 think we were antagonistic about anything at that		
	122:08 point.		
	122:09 Q. And would it be fair to say that the		
	122:10 consensus of the advisory committee is that feeder		
	122:11 space was a critical element affecting welfare?		
122:14 - 122:19	Bell, Donald 2013-08-20	00:00:32	Bell_Final.96
	122:14 THE WITNESS: The committee, I don't think,		
	122:15 was as firm as I was. Remember, we had -- worldwide		
	122:16 we had over 50 million chickens working on the		
	122:17 feeder space part of that. And they bought and		
	122:18 built all over the world. And up to that point, up		








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DESIGNATION	SOURCE	DURATION	ID
	122:19 to that point, 4 inches was kind of the exception.		
125:24 - 127:07	Bell, Donald 2013-08-20	00:01:55	Bell_Final.97
	125:24 Q. How would you describe it, the importance		
	125:25 of feeder space?		
	126:01 A. First of all, you have dominant birds		
	126:02 picking over the food and taking out the -- mostly		
	126:03 the grain, which is like dessert, you know, they		
	126:04 prefer that. And that's where the carbohydrate --		
	126:05 that's where the energy is.		
	126:06 So you are starting to imbalance the diet		
	126:07 by limiting the feeder space.		
	126:08 Pictures that we drew about the original		
	126:09 cage space issue is that maybe three birds would be		
	126:10 at the feed trough and one bird would have to stand		
	126:11 in the back.		
	126:12 And when you change the bird numbers, you		
	126:13 change about four things. You change the colony		
	126:14 size, you change the feeder space, you change the		
	126:15 amount of water -- watering per bird.		
	126:16 So to separate the feeder space from the		
	126:17 floor space, that's a difficult exercise, to		
	126:18 separate which is most important. All the eggs that		
	126:19 you lose are feeder space, all the eggs you lose are		
	126:20 floor space, it is very difficult.		
	126:21 We developed formulas in our research where		
	126:22 you could assign numbers to each element, because we		
	126:23 had all kinds of cases. You go out in the field and		
	126:24 the farmer doesn't have a clue.		
	126:25 Q. Now, as far as the floor space aspect, the		
 245.9.1	127:01 first bullet here indicates that the conclusion of		
	127:02 the research, and it says, "Numerous studies" --		
	127:03 A. Go ahead.		
	127:04 Q. -- "have shown that decreasing space		
	127:05 allowances in cages to below approximately 72 square		
	127:06 inches per hen significantly reduces henhouse egg		
	127:07 production and increases mortality," right?		
127:10 - 127:11	Bell, Donald 2013-08-20	00:00:04	Bell_Final.98
	127:10 THE WITNESS: Yes. That's an open-ended		
	127:11 amount of space.		
128:23 - 130:03	Bell, Donald 2013-08-20	00:01:26	Bell_Final.99



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DESIGNATION	SOURCE	DURATION	ID
 245.9.2	128:23 Q. And if you look at the fourth bullet		Bell_Final.99
	128:24 here, the committee says, "Measurements of white		
	128:25 leghorn hens show that they require about 65 to 83		
	129:01 square inches to perform even the most basic		
	129:02 behaviors, standing comfortably and resting, and		
	129:03 more room is required to perform other" --		
	129:04 A. Yeah.		
	129:05 Q. Was that consistent with your research too?		
	129:06 A. Well, we didn't look at the wing flapping,		
	129:07 you know, we didn't look at behavioral things. We		
	129:08 did practical research that the farmer could		
	129:09 duplicate.		
	129:10 And he can count eggs and he can weigh the		
	129:11 eggs and he can weigh the chickens and he can look		
	129:12 at the mortality, but he can't sit out there with a		
 245.15.1	129:13 TV camera determining how many flaps per hour the		
	129:14 chickens wave their wings. That's got to be done in		
	129:15 a laboratory.		
	129:16 Q. All right. One more quick question on this		
	129:17 document. If you turn to the molting section --		
	129:18 A. Got it.		
	129:19 Q. -- and I'm looking at the recommendation		
	129:20 part, the document ends in -98. It says, "Molting		
	129:21 Recommendations for UEP Guidelines."		
	129:22 A. Yeah.		
	129:23 Q. Basically the committee concluded that		
	129:24 there were animal welfare concerns with molting		
	129:25 through forced starvation, right?		
	130:01 A. Feed withdrawal.		
	130:02 Q. And that that feed withdrawal raised		
	130:03 genuine animal welfare concerns; is that fair?		
130:05 - 130:16	Bell, Donald 2013-08-20	00:00:19	Bell_Final.100
	130:05 THE WITNESS: Say that again.		
	130:06 BY MR. OLSON:		
	130:07 Q. The committee concluded that the feed		
	130:08 withdrawal raised animal welfare concerns?		
	130:09 A. Yes.		
	130:10 Q. And encouraged producers and researchers to		
	130:11 develop alternatives?		
	130:12 A. Yes.		

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DESIGNATION	SOURCE	DURATION	ID
	130:13 Q. And recommended that in the meantime the 130:14 shortest period of feed withdrawal period should be 130:15 used? 130:16 A. Yes.		
133:18 - 133:19	Bell, Donald 2013-08-20	00:00:06	Bell_Final.101
 240.1.2	133:18 Q. Let me hand you what's marked Bell 133:19 Exhibit 13 very briefly.		
133:20 - 133:21	Bell, Donald 2013-08-20	00:00:08	Bell_Final.102
 240.1.1	133:20 This is Bates-stamped UE0790540 through 133:21 -542.		
133:22 - 133:25	Bell, Donald 2013-08-20	00:00:12	Bell_Final.103
 240.1.1	133:22 I'll just ask if you can identify this as 133:23 the executed financial consulting agreement between 133:24 you and UEP? 133:25 A. Yes, it is.		
135:12 - 135:13	Bell, Donald 2013-08-20	00:00:03	Bell_Final.104
 385.1.1	135:12 Q. Let me hand you what we've marked as Bell 135:13 14.		
135:17 - 136:02	Bell, Donald 2013-08-20	00:00:27	Bell_Final.105
 385.1.2	135:17 And I'll ask if you can identify this as an 135:18 Egg Economics Update dated December 31, 2000 that 135:19 you authored? 135:20 A. Yes, yes. 135:21 Q. Okay. And you recall this particular 135:22 update? 135:23 A. Yes.		
 385.1.3	135:24 Q. And what it addresses is the economic 135:25 implications of reducing cage density in the U.S., 136:01 right? 136:02 A. Yes.		
136:21 - 137:02	Bell, Donald 2013-08-20	00:00:09	Bell_Final.106
 385.1.4	136:21 Q. Okay. Now, if you look at the third 136:22 paragraph -- 136:23 A. Go ahead. 136:24 Q. Why don't you review that third paragraph 136:25 that starts, "The guidelines." 137:01 A. On the first page? 137:02 Q. Yes. Let me know when you're done.		

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DESIGNATION	SOURCE	DURATION	ID
137:03 - 137:24	Bell, Donald 2013-08-20	00:01:15	Bell_Final.107
	137:03 A. Okay.		
	137:04 Q. All right. You end it by saying, "Major		
	137:05 economic issues are involved with the question of		
	137:06 space and compliance with the specific space		
	137:07 allowance recommendations will be difficult to		
	137:08 accomplish by persuasion alone."		
	137:09 Do you see that?		
	137:10 A. Yes.		
	137:11 Q. And what did you mean by that?		
	137:12 A. This is very -- at the root issue of bird		
	137:13 numbers that I can have in my chicken house.		
	137:14 And everything that I do on this farm has		
	137:15 to do with efficient use of facilities, egg		
	137:16 processing plants, feed mills, chicken houses, and		
	137:17 so on, and so it's a multi-faceted question and		
	137:18 problem.		
	137:19 And it would be, and I think it has turned		
	137:20 out to be, one of the most difficult for people to		
	137:21 accept all aspects of that. I think they lost		
	137:22 membership because -- because of too -- these		
	137:23 requirements are too stringent. But that's why I		
	137:24 said.		
137:25 - 138:23	Bell, Donald 2013-08-20	00:00:48	Bell_Final.108
 385.4	137:25 Q. All right. And if you look at page 4,		
	138:01 there is a heading that says, "Economic Benefits		
	138:02 From Reducing Cage Density"?		
	138:03 A. Yes, yes.		
 385.4.1	138:04 Q. And there is a subheading that says,		
	138:05 "National Participation to Balance Supply With		
	138:06 Demand."		
	138:07 Do you see that?		
	138:08 A. Uh-huh.		
	138:09 Q. You say, "A broad industry-wide acceptance		
	138:10 of the historically proven fact that the industry		
	138:11 makes more with less (more profits with less hens)		
	138:12 would be the greatest windfall of following the UEP		
	138:13 proposed guidelines."		
	138:14 Do you see that?		
	138:15 A. I sure do.		

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DESIGNATION	SOURCE	DURATION	ID
	138:16 Q. And that was your view at the time, right?		
	138:17 A. Yes.		
	138:18 Q. And then in bold underlined it says, "The		
	138:19 task is to devise the method and motivation to		
	138:20 accomplish it voluntarily."		
	138:21 Do you see that?		
	138:22 A. Yes.		
	138:23 Q. And how was that ultimately done?		
138:25 - 140:02	Bell, Donald 2013-08-20	00:01:03	Bell_Final.109
	138:25 THE WITNESS: How is what?		
	139:01 BY MR. OLSON:		
	139:02 Q. Ultimately done.		
	139:03 A. Ultimately done?		
	139:04 Q. Yes.		
	139:05 A. What are you saying? I'm not sure.		
	139:06 Q. How was that task of encouraging national		
	139:07 participation --		
	139:08 A. Well, I assume --		
	139:09 Q. -- accomplished?		
	139:10 A. -- at the time this was written maybe		
	139:11 20 percent of the industry was acceptable to the		
	139:12 idea, eventually maybe 80 percent.		
	139:13 Windfall is something that's unexpected.		
	139:14 Unexpected, so it is not planned. It is an		
	139:15 unexpected result that these things happen.		
	139:16 We didn't go in there -- nobody went in		
	139:17 there and said let's reduce the bird numbers by		
	139:18 20 million. Because back here someplace we said		
	139:19 that they are paying for a million. So we didn't		
	139:20 have a target.		
	139:21 Q. I don't want to focus on the windfall part.		
	139:22 This idea of devising a method and motivation to		
	139:23 accomplish --		
	139:24 A. Uh-huh, yes.		
	139:25 Q. -- was that method and motivation ever		
	140:01 identified, to your knowledge, or how was that		
	140:02 solved?		
140:04 - 140:13	Bell, Donald 2013-08-20	00:00:23	Bell_Final.110
	140:04 THE WITNESS: Well, it says, "Following the		
	140:05 UEP proposed guidelines." Then it says, "The task		

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DESIGNATION	SOURCE	DURATION	ID
	140:06 is to devise the method and motivation to accomplish		
	140:07 it voluntarily."		
	140:08 And that still exists today, it existed		
	140:09 when the program was first introduced.		
	140:10 BY MR. OLSON:		
	140:11 Q. When you say "the program," you're talking		
	140:12 about the UEP-certified program?		
	140:13 A. Yes, yes.		
140:14 - 140:14	Bell, Donald 2013-08-20	00:00:02	Bell_Final.111
	140:14 Q. And that was the method to accomplish this?		
140:16 - 140:17	Bell, Donald 2013-08-20	00:00:02	Bell_Final.112
	140:16 BY MR. OLSON:		
	140:17 Q. That program?		
140:19 - 141:03	Bell, Donald 2013-08-20	00:00:36	Bell_Final.113
	140:19 THE WITNESS: Let me think what you're		
	140:20 saying here.		
	140:21 "To devise the method and motivation to		
	140:22 accomplish it voluntarily."		
	140:23 BY MR. OLSON:		
	140:24 Q. Right.		
	140:25 A. To make more money with less hens.		
	141:01 Q. Right. My question is: The UEP-certified		
	141:02 program was the method that was devised to		
	141:03 accomplish that goal, correct?		
141:06 - 141:21	Bell, Donald 2013-08-20	00:00:39	Bell_Final.114
	141:06 THE WITNESS: I claim there the task is to		
	141:07 devise, which means it hasn't been accomplished at		
	141:08 that point --		
	141:09 BY MR. OLSON:		
	141:10 Q. Right.		
	141:11 A. -- or accepted at that point.		
	141:12 Q. And at this point, the certified		
	141:13 certification expert --		
	141:14 A. I don't even use the word "certified."		
	141:15 Q. So do you know what you're referring to,		
	141:16 the method that was devised to accomplish this?		
	141:17 A. I say it's a task. And I didn't come right		
	141:18 in there and say the only way to do this is to		
	141:19 reduce the cages, I didn't say that. But we've		

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DESIGNATION	SOURCE	DURATION	ID
	141:20 referred to that with examples within this whole 141:21 document.		
141:22 - 142:13	Bell, Donald 2013-08-20	00:00:46	Bell_Final.115
	141:22 Q. Let me try this way. You say, "The task to 141:23 devise the method and motivation to accomplish it 141:24 voluntarily," was that task ever accomplished? 141:25 A. I would say it was accomplished 80 percent, 142:01 yeah. 142:02 Q. And you were referring to the UEP certified 142:03 program participation? 142:04 A. Well, we are talking about cage density now 142:05 and we're talking about the size of requirements, 142:06 yes, and that was accomplished X percent by the 142:07 auditing procedure. 142:08 Are you familiar with that? 142:09 Q. Yes. 142:10 A. That the farms were audited by outside 142:11 auditors, and did you meet your goal, did you meet 142:12 your target. And I don't know what the penalty was 142:13 if you didn't, but, anyway.		
142:18 - 142:25	Bell, Donald 2013-08-20	00:00:17	Bell_Final.116
 385.11.1	142:18 Q. The third sentence says, "Increasing floor 142:19 space allowances are difficult to justify for the 142:20 individual farm, but if enough producers follow this 142:21 practice, industry profits will be considerably 142:22 higher as supply and demand reach a more optimum 142:23 balance." 142:24 Do you see that? 142:25 A. Yes.		
143:12 - 144:12	Bell, Donald 2013-08-20	00:01:20	Bell_Final.117
	143:12 Q. But this aspect about increasing floor 143:13 space allowances are difficult to justify for the 143:14 individual farm -- 143:15 A. That's because he's got a hundred-case- 143:16 an-hour machine and now you want him to run it at 80 143:17 cases because you're going to reduce his burden 143:18 numbers. He knows that right off the bat. He knows 143:19 his feed mill is going to be shut down one day a 143:20 week. He knows he's going to have to lay off some 143:21 labor, and they've been working for him for 25		

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DESIGNATION	SOURCE	DURATION	ID
	143:22 years.		
	143:23 So, you know, it's easy to say that and		
	143:24 easy for me to recommend something like that, but		
	143:25 they have to implement it. I mean, that's what the		
	144:01 whole thing is about, you follow the guidelines.		
	144:02 And you tell a person he has to reduce his		
	144:03 flock size by 20 percent, sure he can go build		
	144:04 another chicken house for that 20 percent, he can do		
	144:05 that --		
	144:06 Q. But that's expensive?		
	144:07 A. But that's expensive. And he's got -- he's		
	144:08 already got the chickens and he's got a transition		
	144:09 period to shift from 100 to 80. But when it comes		
	144:10 time in the deadline and the audit says you still		
	144:11 have 100 percent, and whatever the penalty is, I'm		
	144:12 not aware of, but that's the issue.		
144:18 - 144:18	Bell, Donald 2013-08-20	00:00:04	Bell_Final.118
 206.1.5	144:18 Q. Let me hand you what we've marked Bell 15.		
145:01 - 145:13	Bell, Donald 2013-08-20	00:00:46	Bell_Final.119
 206.1.6	145:01 Q. And can you identify this as a document		
	145:02 that you authored on April 15th, 2002?		
 206.1	145:03 A. This is called a memo, and this was started		
	145:04 with my first relationship with UEP, which I've told		
	145:05 them that I would do, and it would be all economic,		
	145:06 it would be -- it would parallel some of the other		
	145:07 reports that we also told them we would continue to		
	145:08 produce.		
	145:09 I'm not sure about this particular -- well,		
	145:10 you want to go ahead and ask questions. Go ahead.		
	145:11 Q. That's helpful.		
	145:12 This memo is something that UEP -- that you		
	145:13 were compensated by UEP for writing?		
145:16 - 145:23	Bell, Donald 2013-08-20	00:00:10	Bell_Final.120
	145:16 THE WITNESS: That's what we promised to		
	145:17 include in our services.		
	145:18 BY MR. OLSON:		
	145:19 Q. That's a better way of putting it. Thank		
	145:20 you.		
	145:21 You say this was written under the		
	145:22 sponsorship of UEP?		

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DESIGNATION	SOURCE	DURATION	ID
	145:23 A. Yes.		
146:17 - 148:01	Bell, Donald 2013-08-20	00:01:21	Bell_Final.121
	146:17 Now, back to Bell Exhibit 15, what you call		
	146:18 the memo?		
	146:19 A. Yes.		
	146:20 Q. This is sometimes called a flock		
	146:21 projection?		
	146:22 A. No, it isn't.		
	146:23 Q. Okay.		
	146:24 A. It says there "flock projection," but this		
	146:25 is not the official -- this is a memo.		
	147:01 Q. A memo, okay. All right.		
 206.1.1	147:02 And the subject of this one was the effect		
	147:03 on egg prices and flock performance of reducing cage		
	147:04 density, right?		
	147:05 A. Yes.		
 206.1.2	147:06 Q. And the first thing you say is, "Reducing		
	147:07 the nation's average cage density can have numerous		
	147:08 positive effects on the income and costs of		
	147:09 individual producers in the industry as a whole,"		
	147:10 right?		
	147:11 A. Yes.		
	147:12 Q. Now, who are these memos distributed to?		
	147:13 A. I have no idea, but I believe UEP sent it		
	147:14 to all their members.		
	147:15 Q. So you would send it to UEP, and they		
	147:16 would --		
	147:17 A. Yes, I sent the original to UEP.		
	147:18 Q. All right.		
	147:19 Let's just go to the fourth paragraph that		
 206.1.4	147:20 starts, "A one-million hen reduction."		
	147:21 A. Yes.		
 206.1.3	147:22 Q. You say, "We commonly hear the excuse that		
	147:23 'If we do it, there is no guarantee that my		
	147:24 competitor will do it.'"		
	147:25 Do you see that?		
	148:01 A. Uh-huh.		
148:18 - 151:16	Bell, Donald 2013-08-20	00:02:34	Bell_Final.122
	148:18 Q. And then I want to focus to the next		
	148:19 sentence.		






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DESIGNATION	SOURCE	DURATION	ID
	148:20 A. "We commonly hear the excuse 'If we do it,		
	148:21 there is no guarantee my competitor would do it.'		
	148:22 So I gained a competitive advantage because I didn't		
	148:23 do it. The one guy has a hundred birds in his house		
	148:24 and I've only got 80 and I've lost competitive		
	148:25 advantage.		
	149:01 Q. So is that the type of thing you would hear		
	149:02 expressed --		
	149:03 A. That's the type of thing.		
	149:04 Q. -- by producers during the course of your		
	149:05 work?		
	149:06 A. That's right.		
 206.3	149:07 Q. Now let's look at page 3.		
	149:08 A. Page 3? Okay.		
	149:09 Q. These are some data you provided.		
	149:10 A. Statistics, right.		
 206.3.1	149:11 Q. Statistic. I wanted to look at number 6		
	149:12 called "Force Molting."		
	149:13 A. You are on page 33?		
	149:14 Q. Yes.		
	149:15 A. Excuse me. Go ahead.		
	149:16 Q. All right. And there is data regarding		
	149:17 force molting?		
	149:18 A. Yes.		
	149:19 Q. Now, this force molting, that's the forced		
	149:20 starvation of feed withdrawal from the hen, right?		
	149:21 A. At that time that was a very common way,		
	149:22 yes.		
	149:23 Q. And what this indicates is that from 2000		
	149:24 to 2001 molting increased, right?		
	149:25 A. Let me explain something. Okay?		
	150:01 This does not say what percentage of the		
	150:02 chickens are molted, it says what percentage of the		
	150:03 chickens have been molted or are being molted.		
	150:04 Q. Okay.		
	150:05 A. Actually, at this point in time probably		
	150:06 two-thirds to 70 percent of all chickens were		
	150:07 molted.		
	150:08 Q. Okay.		
	150:09 A. Do you follow the difference between that		
	150:10 statement?		

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DESIGNATION	SOURCE	DURATION	ID
	150:11 Q. I think so.		
	150:12 A. Okay. Go ahead.		
	150:13 Q. And what you show here is from 2000 to		
	150:14 2001 --		
	150:15 A. There was a slight increase.		
	150:16 Q. -- force molting, there was an increase?		
	150:17 A. In January and for the two months. And we		
	150:18 would start to think, well, January and February, is		
	150:19 this thing going to go three or four months, is it		
	150:20 going to keep going? If it keeps going, then people		
	150:21 will start to say, well, maybe it is going to result		
	150:22 in less eggs.		
	150:23 Q. And also there was more molting happening		
	150:24 in January and February of 2002 than January and		
	150:25 February of 2000?		
	151:01 A. That's what it says, yeah. And then 2002		
	151:02 you went back down.		
	151:03 Q. No, but 2002 is still more than what's		
	151:04 happening in 2000?		
	151:05 A. Oh, yeah, yeah, yeah. This is normal		
	151:06 fluctuation.		
	151:07 Q. Okay. But it's an increase -- just stick		
	151:08 with me for a moment.		
	151:09 A. Go ahead.		
	151:10 Q. In both 2001 and 2002 there was more		
	151:11 molting happening than in the same period --		
	151:12 A. Yes, exactly.		
	151:13 Q. And isn't it kind of odd that was happening		
	151:14 when the guidelines say that force molting has		
	151:15 animal welfare problems?		
	151:16 A. No.		
151:20 - 151:25	Bell, Donald 2013-08-20	00:00:11	Bell_Final.123
	151:20 Q. Why did molting increase if the Scientific		
	151:21 Advisory Committee --		
	151:22 A. Because they decided economically that it		
	151:23 was justified.		
	151:24 Q. And it wasn't prohibited either, was it?		
	151:25 A. Never prohibited.		
152:02 - 152:16	Bell, Donald 2013-08-20	00:00:29	Bell_Final.124
	152:02 THE WITNESS: That's the one letter we		

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DESIGNATION	SOURCE	DURATION	ID
	152:03 wrote way back here that says it is not a matter of		
	152:04 molting versus not molting, it is a matter of egg		
	152:05 production.		
	152:06 BY MR. OLSON:		
 206.3.2	152:07 Q. And if you look at point 7, slaughter -- do		
	152:08 you see that?		
	152:09 A. Go ahead.		
	152:10 Q. That's the number of birds that are		
	152:11 slaughtered?		
	152:12 A. In a USDA slaughter plant.		
	152:13 Q. Yes. And from 2000 to 2002 there was an		
	152:14 increase in the number of birds that were		
	152:15 slaughtered --		
 Clear	152:16 A. That's what it says.		
175:23 - 175:24	Bell, Donald 2013-08-21	00:00:03	Bell_Final.125
 824.1.1	175:23 All right. I've handed you what's been		
	175:24 marked Bell Exhibit 16....		
176:04 - 179:01	Bell, Donald 2013-08-21	00:03:26	Bell_Final.126
	176:04 Q. Can you identify it as a United		
 824.1.2	176:05 Voices publication dated July 29, 2002?		
	176:06 A. Yes, I can.		
	176:07 Q. And it attaches a -- what you've referred		
 824.5.1	176:08 to as a memoranda that you've prepared under the		
	176:09 sponsorship of UEP; is that right?		
 824.5.1	176:10 A. That's correct. We called it a memo, but		
	176:11 that's okay.		
	176:12 Q. A memo.		
	176:13 And the date of this memo is July 16, 2002;		
	176:14 is that --		
	176:15 A. Yes, sir.		
	176:16 Q. All right. And the title of it is,		
	176:17 "Several Possible Scenarios Resulting From UEP's New		
	176:18 Husbandry Guidelines"; is that right?		
	176:19 A. Yes.		
	176:20 Q. And, specifically, it is a discussion of		
	176:21 what aspect of the husbandry guidelines?		
	176:22 A. The introduction refers to the effects of		
	176:23 the industry's potential reduction of cage		
	176:24 densities. That seems to be the foremost --		
	176:25 Q. So, in other words, what you're looking at		

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DESIGNATION	SOURCE	DURATION	ID
	177:01 are scenarios regarding the cage density aspect of		
	177:02 the guidelines?		
	177:03 A. Yes. Yes, sir.		
 824.5.4	177:04 Q. Okay. And who asked you, if anyone, to		
	177:05 prepare this memo?		
	177:06 A. Well, the introduction says, "Gene Gregory		
	177:07 asked me," and at that time I'm not sure whether he		
	177:08 was president or vice president of UEP.		
	177:09 Q. So Mr. Gregory from UEP had asked you to		
	177:10 prepare --		
	177:11 A. Yes, sir.		
	177:12 Q. -- this memo?		
	177:13 And at this time you were on retainer by		
	177:14 UEP to prepare these types of documents, correct?		
	177:15 A. Yes.		
 824.5.3	177:16 Q. All right. If you look at the "Background"		
	177:17 section it refers to the cage space standards that		
	177:18 UEP had developed.		
	177:19 Do you see that?		
	177:20 A. Yes.		
	177:21 Q. And it says, "The standards described the		
	177:22 stepwise introduction of increased space		
	177:23 allowances."		
	177:24 What were you referring to there?		
	177:25 A. "Standards described the stepwise" -- in		
	178:01 other words, it would be a transition period under		
	178:02 which everyone has an opportunity to get their goal.		
	178:03 It's impossible to get to your goal		
	178:04 overnight, so it's a -- apparently it's about a		
	178:05 six-year -- in the table, a six-year period to		
	178:06 eventually get to your goal.		
 824.5.7	178:07 Q. And you refer, actually, to a seven-year		
	178:08 period in this discussion?		
	178:09 A. Okay. That's --		
	178:10 Q. Do you see that?		
	178:11 A. Well, I don't see where -- where is that --		
	178:12 I see that, yes.		
	178:13 Q. Do you see where you write, "the producer's		
	178:14 committee has advised that such changes shall take		
	178:15 place over a seven-year period from 2002 to 2008 in		
	178:16 order to cause the least disruption in production		

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DESIGNATION	SOURCE	DURATION	ID
	178:17 and marketing processes."		
	178:18 Do you see that?		
	178:19 A. That would be the UEP's committee and not		
	178:20 the Scientific Advisory Committee.		
	178:21 Q. Right. And is that consistent with your		
	178:22 knowledge of why the UEP producer committee decided		
	178:23 that there should be this seven-year period?		
	178:24 A. It could have been more, it could have been		
	178:25 less. I assume this was some kind of a compromise		
	179:01 among the members.		
179:02 - 179:03	Bell, Donald 2013-08-21	00:00:05	Bell_Final.127
	179:02 Q. But the goal was to avoid or to minimize		
	179:03 disruption in production?		
179:05 - 179:05	Bell, Donald 2013-08-21	00:00:00	Bell_Final.128
	179:05 THE WITNESS: Yes.		
179:07 - 179:18	Bell, Donald 2013-08-21	00:00:37	Bell_Final.129
	179:07 Q. Did you attend meetings of the UEP producer		
	179:08 committee?		
	179:09 A. No.		
	179:10 Q. Never?		
	179:11 A. Never, never, never? They may have been		
	179:12 part of the annual meeting where I made a		
	179:13 presentation. There was no formal attendance at		
	179:14 their meetings. I don't think they really		
	179:15 encouraged it. They may have had the chairperson of		
	179:16 our -- of the scientific committee.		
	179:17 If I attended, it would have been in		
	179:18 association with their annual meeting.		
179:19 - 179:23	Bell, Donald 2013-08-21	00:00:16	Bell_Final.130
	179:19 Q. Now, strictly from the standpoint of supply		
	179:20 management, did you anticipate any benefit from the		
	179:21 fact that the guidelines involved this stepwise		
	179:22 increase of cage space allowances over a seven-year		
	179:23 period?		
179:25 - 180:10	Bell, Donald 2013-08-21	00:00:44	Bell_Final.131
	179:25 THE WITNESS: Obviously, the intent of		
	180:01 reducing the overpopulation of chickens was intended		
	180:02 to take time. This was an animal welfare issue, and		
	180:03 it couldn't be done without extreme disruption of		



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DESIGNATION	SOURCE	DURATION	ID
	180:04 individual companies' replacement policies.		
	180:05 It takes five to six months to grow a young		
	180:06 chicken. And then there's another eight or ten		
	180:07 flocks alive that are producing eggs for the		
	180:08 company. And overnight would totally disrupt the		
	180:09 marketing of eggs and the supply of eggs in the		
	180:10 United States.		
180:15 - 180:22	Bell, Donald 2013-08-21	00:00:28	Bell_Final.132
	180:15 Q. As we discussed yesterday, the goal of		
	180:16 supply management and balancing supply and demand		
	180:17 was one you thought was important?		
	180:18 A. I do.		
	180:19 Q. Focusing on that goal, did you anticipate		
	180:20 benefits to the industry resulting from the fact		
	180:21 that the guidelines contemplated a seven-year		
	180:22 stepwise increase of cage space allowances?		
180:25 - 181:12	Bell, Donald 2013-08-21	00:00:26	Bell_Final.133
	180:25 THE WITNESS: I anticipated a partial		
	181:01 benefit the first year, more benefit the second year		
	181:02 and final benefit the seventh year. That would be		
	181:03 the ultimate benefit.		
	181:04 BY MR. OLSON:		
	181:05 Q. And how about years three through six?		
	181:06 A. The same, I'm not giving you every single		
	181:07 year, but --		
	181:08 Q. Okay. So just to be clear --		
	181:09 A. -- progressively.		
	181:10 Q. -- a progressive benefit over the course of		
	181:11 the seven years?		
	181:12 A. Yes.		
181:15 - 182:03	Bell, Donald 2013-08-21	00:00:50	Bell_Final.134
	181:15 Q. And just to be clear, you anticipated a		
	181:16 progressive benefit over the course of the seven		
	181:17 years?		
	181:18 A. Yes.		
	181:19 Q. And why was that?		
	181:20 A. Because everyone was not required to comply		
	181:21 every year to the same extent. They were required		
	181:22 to comply by the seventh year. And that's when		
	181:23 everyone should have gotten to their goal of flock		



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DESIGNATION	SOURCE	DURATION	ID
	181:24 size, density, the whole issue.		
	181:25 Q. But even for those folks who were signed up		
	182:01 from day 1, did you anticipate a benefit from their		
	182:02 stepwise increase over each of the seven years, a		
	182:03 benefit in the industry?		
182:05 - 183:01	Bell, Donald 2013-08-21	00:00:54	Bell_Final.135
	182:05 THE WITNESS: The benefits could only go to		
	182:06 year 7. If you started the very first year and took		
	182:07 care of your entire responsibility, then you were		
	182:08 going to have the lower density for the entire seven		
	182:09 years. But you didn't have to meet the obligations,		
	182:10 except for these dates here that are on this chart.		
	182:11 So you were not required to do it in the first year.		
	182:12 BY MR. OLSON:		
	182:13 Q. Right. Well, let's make sure we're		
	182:14 speaking the same language.		
	182:15 A. Go ahead.		
	182:16 Q. Your point is under the program, a producer		
	182:17 wasn't required to get to 67 inches right away?		
	182:18 A. Right.		
	182:19 Q. But there were requirements for each year		
	182:20 under the program, right?		
	182:21 A. Yes. That's what is spelled out here.		
	182:22 There is a different total allowance for each year.		
	182:23 Q. Right. And those numbers are going up; in		
	182:24 other words, each year a producer had to increase		
	182:25 the space allowance?		
	183:01 A. Uh-huh -- yes.		
184:01 - 184:05	Bell, Donald 2013-08-21	00:00:15	Bell_Final.136
	184:01 Q. And now stepping back for the industry as a		
	184:02 whole, did you anticipate, based on the work and		
	184:03 analysis you had done, a progressive benefit over		
	184:04 the course of the seven years for the industry as a		
	184:05 whole?		
184:07 - 184:08	Bell, Donald 2013-08-21	00:00:02	Bell_Final.137
	184:07 THE WITNESS: I think I've said that		
	184:08 already, yes.		
184:20 - 185:16	Bell, Donald 2013-08-21	00:00:59	Bell_Final.138
 Clear	184:20 Q. And the benefit of that plan was what?		

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DESIGNATION	SOURCE	DURATION	ID
	184:21 A. It would have accrued to the entire		
	184:22 industry.		
	184:23 Q. And the benefit that would have accrued to		
	184:24 the entire industry was what?		
	184:25 A. Higher prices.		
	185:01 Q. Now, in this piece you mention a couple of		
	185:02 variables that you looked at in your modeling, true?		
	185:03 A. Yes.		
	185:04 Q. Sometimes I have to ask just preliminary		
	185:05 questions like that.		
	185:06 A. Okay.		
	185:07 Q. And one of those was this concept of		
	185:08 backfilling; is that right?		
	185:09 A. Yes.		
	185:10 Q. You anticipated that some backfilling would		
	185:11 occur and that it was variable in how this would		
	185:12 unfold?		
	185:13 A. Would you refer to the comment about		
	185:14 backfilling?		
 824.6	185:15 Q. Yes. If you look at page 2.		
	185:16 A. Page 2?		
185:22 - 186:18	Bell, Donald 2013-08-21	00:01:04	Bell_Final.139
	185:22 Q. Now, on page 2 --		
	185:23 A. Item 1 here?		
 824.6.1	185:24 Q. Yes. You say, "Increases in hen counts by		
	185:25 backfilling cages at 'push-out' time or by utilizing		
	186:01 previously unused farms or houses may have		
	186:02 occurred."		
	186:03 Do you see that?		
	186:04 A. Yes, sir.		
	186:05 Q. And so this concept of backfilling was		
	186:06 something that you anticipated might occur?		
	186:07 A. That would -- that would make the analysis		
	186:08 less certain because it's an individual choice to		
	186:09 backfill or not to backfill, and it would probably		
	186:10 never make the final outcome off by more than 5 or		
	186:11 10 percent, because you only have so many empty		
	186:12 cages. And, also, it's a policy for many companies		
	186:13 not to backfill at all.		
	186:14 Q. But just as a preliminary point --		

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DESIGNATION	SOURCE	DURATION	ID
	186:15 A. Uh-huh.		
	186:16 Q. -- the idea that some companies might		
	186:17 backfill was a possibility you recognized?		
	186:18 A. Yes.		
186:21 - 187:17	Bell, Donald 2013-08-21	00:00:45	Bell_Final.140
 824.6.2	186:21 Q. Now, if you turn to the next page -- well,		
	186:22 actually, still at the bottom of 2, another variable		
	186:23 you mentioned was the introduction of new houses or		
	186:24 farms.		
	186:25 Do you see that --		
 824.6.3	187:01 A. Yes.		
	187:02 Q. -- heading?		
	187:03 And then it's discussed a little bit more		
	187:04 on the next page.		
	187:05 A. Uh-huh.		
	187:06 Q. And --		
	187:07 A. Yes, sir.		
	187:08 Q. -- if you look, there is a large paragraph		
	187:09 there that starts "The model looks at."		
	187:10 Why don't you review that paragraph to		
	187:11 yourself?		
	187:12 A. I did.		
	187:13 Q. Okay.		
	187:14 A. The model looks at different growth rates		
	187:15 in the industry, beginning in 2002 going to 2010.		
	187:16 Q. And when you refer to growth rates, what --		
	187:17 A. Numbers of chickens or numbers of eggs.		
188:11 - 188:13	Bell, Donald 2013-08-21	00:00:12	Bell_Final.141
	188:11 Q. And why was there hope at this time that		
	188:12 the cage space guidelines could lead to a sustained		
	188:13 improvement in the supply/demand relationship?		
188:17 - 189:01	Bell, Donald 2013-08-21	00:00:41	Bell_Final.142
	188:17 THE WITNESS: The existence of a single		
	188:18 chicken house has a maximum capacity and it has a		
	188:19 UEP recommended capacity. And until -- and once		
	188:20 you've reached the UEP number, the only way that you		
	188:21 can affect the population in the United States is		
	188:22 either through productivity of the individual		
	188:23 chicken, which it does increase every year, or by		
	188:24 someone building a new complex or new houses,		

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DESIGNATION	SOURCE	DURATION	ID
	188:25 because the new capacity of that house is a 189:01 constant.		
189:03 - 189:06	Bell, Donald 2013-08-21	00:00:13	Bell_Final.143
	189:03 Q. Now, this possibility of producers building 189:04 new complexes and housing is something that you 189:05 considered as well, in your work? 189:06 A. Yes, that's the growth factor.		
189:07 - 189:09	Bell, Donald 2013-08-21	00:00:13	Bell_Final.144
	189:07 Q. And one of the factors that you point out 189:08 here is that that type of -- or building new housing 189:09 was going to be more expensive?		
189:12 - 189:18	Bell, Donald 2013-08-21	00:00:10	Bell_Final.145
	189:12 THE WITNESS: Does it actually say that? 189:13 BY MR. OLSON: 189:14 Q. Well, do you see where you say in the next 189:15 sentence, "More expensive housing" -- 189:16 A. I see it, I see it, yeah. 189:17 Q. -- "(as a result of lower cage density) 189:18 should delay start-up decisions and financing"?		
189:19 - 190:01	Bell, Donald 2013-08-21	00:00:08	Bell_Final.146
	189:19 A. Immediately if you build -- 189:20 MR. GODLSTEIN: Wait for him to finish the 189:21 question. 189:22 THE WITNESS: Excuse me. I thought he was 189:23 finished. 189:24 BY MR. OLSON: 189:25 Q. I was. 190:01 Go ahead.		
190:03 - 190:09	Bell, Donald 2013-08-21	00:00:25	Bell_Final.147
	190:03 THE WITNESS: Immediately the house is 190:04 going to cost more per bird as you remove 20 percent 190:05 of the birds. The per-bird cost is going to go up. 190:06 Costs, in general, go up annually with the 190:07 economics of the time. Lumber costs go up and the 190:08 metal costs go up, and so on, so that, I think, is a 190:09 very conservative estimate.		
191:03 - 192:18	Bell, Donald 2013-08-21	00:02:57	Bell_Final.148
	191:03 Q. Now, in order for the egg industry to 191:04 benefit as a whole from these guidelines, was there		



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DESIGNATION	SOURCE	DURATION	ID
191:05	any limit, in your view, on how many new housing		
191:06	complexes should be built?		
191:07	A. Well, we have to keep up with the human		
191:08	population in the United States. As the human		
191:09	population goes up 1 percent a year, which is		
191:10	3 million, theoretically you need 3 million more		
191:11	chickens, just to keep the status quo.		
191:12	Now, if the consumption of eggs goes down,		
191:13	and, of course, those numbers are going to change.		
191:14	You have to take into consideration the		
191:15	increasing productivity of the chickens at the rate		
191:16	of half a percent a year. Over that seven-year		
191:17	period, you would be projecting another 3 1/2		
191:18	percent production, and that's -- and that's a lot.		
191:19	That's 10 million birds.		
191:20	Q. So, in other words, the egg industry, even		
191:21	under the guidelines, might need to increase		
191:22	production to some extent?		
191:23	A. If you look at the statistics that we		
191:24	produce in our newsletter, you'll see that the layer		
191:25	numbers in the United States have been very		
192:01	constant, very constant layer numbers. Now,		
192:02	remember I told you productivity of each chicken has		
192:03	changed --		
192:04	So all these factors, you've got the		
192:05	consumers' reaction to newspaper clippings about		
192:06	cholesterol or other factors, other health factors.		
192:07	You have some disease epidemics that have occurred		
192:08	that will scare people away from eating eggs. And		
192:09	so, you know, there's multiple factors going on.		
192:10	And all of these -- if we considered every single		
192:11	one of them, the story might be totally different,		
192:12	but you have to take a center position.		
192:13	Q. Well, I'd like to focus on this factor of		
192:14	building new housing complexes.		
192:15	A. Yes.		
192:16	Q. Are you aware of efforts by UEP to persuade		
192:17	its members not to overbuild as a result of the		
192:18	increased space allowances under the guidelines?		
192:20 - 193:09	Bell, Donald 2013-08-21	00:00:37	Bell_Final.149

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DESIGNATION	SOURCE	DURATION	ID
	192:20 THE WITNESS: There are several answers to		Bell_Final.149
	192:21 that question. Do you want them all?		
	192:22 BY MR. OLSON:		
	192:23 Q. Yes. Let's start with the first one.		
	192:24 A. One suggestion and recommendation to		
	192:25 members is that they don't build brand-new -- add on		
	193:01 facilities to what they've already got and that they		
	193:02 buy someone else out.		
	193:03 Q. And that was a suggestion and		
	193:04 recommendation made by UEP?		
	193:05 A. UEP, right.		
	193:06 So the intent there is to try to stabilize		
	193:07 the bird numbers. Once you accomplish the stable		
	193:08 bird numbers, you don't want people going out there		
	193:09 and doubling their number of houses, do you? And --		
193:24 - 194:09	Bell, Donald 2013-08-21	00:00:29	Bell_Final.150
	193:24 THE WITNESS: Houses only last so long, and		
	193:25 equipment, and therefore, they are only efficient		
	194:01 for so many years and then they start to fall down.		
	194:02 So there is ongoing replacement of houses all the		
	194:03 time.		
	194:04 And when they have a requirement to have 80		
	194:05 percent of the population in any given house, the		
	194:06 new house will be designed with that in mind and it		
	194:07 will be a new hundred percent. It won't be an 80		
	194:08 percent, it will be a hundred percent of that new		
	194:09 house.		
195:05 - 195:07	Bell, Donald 2013-08-21	00:00:12	Bell_Final.151
	195:05 Q. Okay. And what do you recall about		
	195:06 caution -- or UEP cautioning its members not to grow		
	195:07 in numbers of birds or production?		
195:09 - 196:16	Bell, Donald 2013-08-21	00:01:47	Bell_Final.152
	195:09 THE WITNESS: Well, that's for my own		
	195:10 personal opinion -- viewpoint. The fact that they		
	195:11 send out my newsletter with my recommendations on		
	195:12 that means that they are in somewhat of an agreement		
	195:13 with what I'm saying.		
	195:14 BY MR. OLSON:		
	195:15 Q. Because you personally cautioned against		
	195:16 producers growing in numbers of birds and		

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DESIGNATION	SOURCE	DURATION	ID
	195:17 production?		
	195:18 A. Yes. I cannot point to their actual		
	195:19 document. Maybe this kind of a newsletter here, it		
	195:20 would say something to that effect. But the add on,		
	195:21 which is my letter, certainly would, over time, say		
	195:22 that too many birds is detrimental.		
	195:23 Q. And, specifically in the context of the		
	195:24 increased space allowances under the program, you		
	195:25 cautioned against reacting to that by growing the		
	196:01 number of birds and production and cautioned against		
	196:02 doing that?		
	196:03 A. The two are independent of one another.		
	196:04 Once you get to this lower number, and then you have		
	196:05 no recommendations, regulations or anything else		
	196:06 that keeps you from -- other than maintaining the		
	196:07 capacity of those houses, you have nothing that will		
	196:08 keep you from building the second house. And that's		
	196:09 what you're cautioning the industry not to do.		
 824.8	196:10 Q. All right. Now let's look at page 4 of the		
	196:11 document in front of you. There is a heading that		
	196:12 says "Results" --		
	196:13 A. Okay.		
 824.8.1	196:14 Q. -- and you're summing up some of your work		
	196:15 here. Have you had a chance to just briefly review		
	196:16 the "Results" section?		
196:22 - 196:24	Bell, Donald 2013-08-21	00:00:12	Bell_Final.153
	196:22 So you are modeling the effect here -- or		
	196:23 you're reporting possible outcomes from the effect		
	196:24 of the cage space guidelines, right?		
197:04 - 199:23	Bell, Donald 2013-08-21	00:03:43	Bell_Final.154
	197:04 Q. And you have a couple different ways		
	197:05 of looking at it. One is the results, if there was		
	197:06 100 percent compliance and no growth?		
	197:07 A. Yes.		
	197:08 Q. And then you also look at 50 percent		
	197:09 compliance and 10 percent sustained growth rate.		
	197:10 Those are basically the two ways you look at it		
	197:11 here, right?		
	197:12 A. I assume you're correct. I haven't read it		
	197:13 in detail.		




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DESIGNATION	SOURCE	DURATION	ID
	197:14 Q. Well, just what you report here in the		
	197:15 "Results" section?		
	197:16 A. Okay. Well, you'll have to show the		
	197:17 specific sentence you are talking about.		
	197:18 Are you in "Results"? Which item?		
	197:19 Q. Okay. So number 1 says with a hundred		
	197:20 percent compliance and no growth, right?		
	197:21 A. Uh-huh.		
	197:22 Q. You estimated that chicks hatched in 2009		
	197:23 would be down over 26 percent, correct?		
	197:24 A. Yes, sir.		
	197:25 Q. And then if you look at number 4 you say		
	198:01 even with 50 percent compliance and at a 10 percent		
	198:02 sustained growth rate, the nation's flock in 2009		
	198:03 would still be smaller than it was today?		
	198:04 A. Yes.		
	198:05 Q. So you had maybe an aggressive assumption		
	198:06 and a conservative assumption there showing a range?		
	198:07 A. I would have tried to bracket the possible		
	198:08 conditions, yes.		
	198:09 Q. All right. And when you say in number 6,		
	198:10 "total industry farm egg income," subtracting -- and		
	198:11 you subtract 35 cents per dozen.		
	198:12 Do you see that?		
	198:13 A. I see that.		
	198:14 Q. Why are you subtracting 35 cents per dozen?		
	198:15 A. I'm not sure I know.		
824.8.2	198:16 Q. Fair enough. In your "Comments" section at		
	198:17 the bottom --		
	198:18 A. Yes.		
	198:19 Q. -- you say, "We don't expect everyone to		
	198:20 believe the precise numbers that are listed in the		
	198:21 tables, but the general directions should be of		
	198:22 interest to everyone in table-egg production."		
	198:23 Do you see that?		
	198:24 A. Yes, sir.		
	198:25 Q. Why did you believe the general direction		
	199:01 would be of interest?		
	199:02 A. Well, this is always -- there is always a		
	199:03 disclaimer in most everything we write. So you		
	199:04 don't want to say this is a black-and-white		


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DESIGNATION	SOURCE	DURATION	ID
	199:05 situation, so you do use a disclaimer statement.		
	199:06 But in looking at different scenarios, the		
	199:07 direction is what's important. It's -- is it a		
	199:08 factual direction, and I believe it was, I believe		
	199:09 it is.		
	199:10 Q. And what's the direction that you're		
	199:11 reporting here?		
 824.8.3	199:12 A. Well, we're basically, once again, talking		
	199:13 about the egg numbers or bird numbers and price, and		
	199:14 so we're talking about the gross income of the		
	199:15 industry here in item 7, or whatever. So we're		
	199:16 looking at multiplying bird numbers, times		
	199:17 productivity, times price, holding, we'll say, feed		
	199:18 price constant, so you can look at the effective		
	199:19 income. And you can run your models through		
	199:20 different scenarios, that's what we've done, and		
	199:21 saying, well, the general direction is with		
	199:22 reduction of bird numbers, income of industry will		
	199:23 rise.		
201:03 - 201:07	Bell, Donald 2013-08-21	00:00:18	Bell_Final.155
	201:03 Q. -- the more producers -- the more eggs that		
	201:04 are produced under the program --		
	201:05 A. Yes.		
	201:06 Q. -- the more -- the better prices and the		
	201:07 better profits for all producers?		
201:10 - 202:06	Bell, Donald 2013-08-21	00:01:08	Bell_Final.156
	201:10 THE WITNESS: Yes, but I'd like to add to		
	201:11 that.		
	201:12 BY MR. OLSON:		
	201:13 Q. Sure.		
	201:14 A. Okay. There's only so much history		
	201:15 involving extremely high egg prices or high egg		
	201:16 prices, period, so the analyses have to deal with		
	201:17 history.		
	201:18 And history says that, within a range,		
	201:19 these events are related.		
	201:20 When you go to conditions like we have		
	201:21 today, and we have totally different cost structure,		
	201:22 totally different price structure and you have		
	201:23 nothing to predict it on.		







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DESIGNATION	SOURCE	DURATION	ID
	201:24 It's just like I read the other day that		
	201:25 Mexico prices of eggs were 80 -- no, \$2.00 -- \$8.00		
	202:01 a dozen, that's what they were when they had this		
	202:02 disease problem. That's totally unpredictable. No		
	202:03 one would have predicted that, and it's the same		
	202:04 thing with when our feed prices double, no one would		
	202:05 have predicted that would have happened or the		
	202:06 results, just the general.		
202:07 - 202:23	Bell, Donald 2013-08-21	00:00:46	Bell_Final.157
	202:07 Q. We'll circle back to that, but just so your		
	202:08 testimony is clear, the direction that you were		
	202:09 saying in July of 2002 that should be of interest to		
	202:10 everyone is that the more eggs that are produced		
	202:11 under the UEP program, the better prices for the		
	202:12 industry as a whole?		
	202:13 A. The fewer eggs, not the more. You said		
	202:14 "more."		
	202:15 Q. The higher percentage of eggs that are		
	202:16 subject to the program.		
	202:17 A. That makes fewer eggs.		
	202:18 Q. Right.		
	202:19 A. Okay. You didn't say that.		
	202:20 Q. All right. So the higher percentage of		
	202:21 eggs that are subject to the program, the better		
	202:22 prices and profits for all producers?		
	202:23 A. Yes.		
203:10 - 203:10	Bell, Donald 2013-08-21	00:00:04	Bell_Final.158
 825.1.1	203:10 Q. Let me hand you what we marked Bell 17.		
203:11 - 203:13	Bell, Donald 2013-08-21	00:00:10	Bell_Final.159
	203:11 And I'm only going to ask you to look at a		
 825.11	203:12 portion of this, which is towards where you are. It		
	203:13 is towards the back.		
203:17 - 203:20	Bell, Donald 2013-08-21	00:00:11	Bell_Final.160
 825.11.1	203:17 Q. And it's -- the heading is, "Reason Why		
	203:18 Industry Could Have Period of Profitability.		
	203:19 Editorial By: Gene Gregory."		
	203:20 A. Yes.		
204:06 - 204:20	Bell, Donald 2013-08-21	00:00:27	Bell_Final.161
	204:06 Q. All right. Now, do you recall, after		





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DESIGNATION	SOURCE	DURATION	ID
	204:07 looking at this, whether you've seen this editorial		
	204:08 before?		
	204:09 A. Having read this editorial?		
	204:10 Q. Yes.		
	204:11 A. I would do it automatically.		
	204:12 Q. Okay. So -- okay.		
	204:13 Now, in this editorial Mr. Gregory is		
	204:14 referring to the fact that egg prices have reached		
	204:15 very high levels.		
	204:16 A. And the date is 2003?		
	204:17 Q. August of 2003.		
	204:18 A. August. Okay.		
	204:19 Q. Do you see that?		
	204:20 A. I see it.		
205:06 - 205:25	Bell, Donald 2013-08-21	00:00:58	Bell_Final.162
	205:06 In any case, just to orient ourselves, it		
	205:07 appears in August 2003 eggs prices have --		
	205:08 A. And, of course, that's the summertime, and		
	205:09 summertime is usually the lowest price for the year.		
	205:10 Q. Right. And, in fact, Mr. Gregory reports		
	205:11 the Urner Barry quote had reached a level in the		
	205:12 summer of 2003 that had never previously been		
	205:13 recorded.		
	205:14 Do you see that right at the very		
	205:15 beginning?		
	205:16 A. That's -- well, he had a quote of a dollar.		
	205:17 Urner Barry quoted, not what the producer gets, by		
	205:18 any means. It's a benchmark.		
	205:19 So if he's comparing apples and apples, and		
	205:20 then I guess he's made -- he's researched the		
	205:21 subject.		
	205:22 I would have my own data on the monthly egg		
	205:23 prices that I maintain, and I could go back and		
	205:24 verify it if you want me to. I didn't make any		
	205:25 attempt to verify it.		
206:06 - 206:22	Bell, Donald 2013-08-21	00:00:34	Bell_Final.163
 825.11.2	206:06 Q. And in there Mr. Gregory writes, "the fact		
	206:07 that approximately 200 companies have begun		
	206:08 implementing the program, this has caused a flock		
	206:09 production and will continue to do so for some		

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DESIGNATION	SOURCE	DURATION	ID
	206:10 time."		
	206:11 Do you see that?		
	206:12 A. Yes.		
 825.11.3	206:13 Q. And then in the next paragraph do you see		
	206:14 where he says, "The hatch reduction to meet the		
	206:15 Animal Husbandry Guidelines began with chicks		
	206:16 hatched after April 1, 2002"?		
	206:17 A. Yes.		
	206:18 Q. Now based -- to your knowledge, is there a		
	206:19 relevant distinction between flock reduction and a		
	206:20 hatch reduction in this context?		
	206:21 A. They should be -- they should be		
 Clear	206:22 correlated.		
210:01 - 212:12	Bell, Donald 2013-08-21	00:03:22	Bell_Final.164
 696.1.4	210:01 Q. Let me hand you what we marked Bell 18.		
	210:02 A. Okay. "High Egg Prices and Molting."		
	210:03 Go ahead.		
	210:04 Q. And this is a document Bates-stamped		
	210:05 BELL002761 through -2763.		
 696.1.1	210:06 And can you identify this, Mr. Bell, as one		
	210:07 of the memos you wrote under the sponsorship of UEP		
	210:08 dated December 10th, 2003?		
	210:09 A. Yes, sir.		
	210:10 Q. It's titled, "High Egg Prices and Molting		
	210:11 How Egg Prices Affect the Decision to Molt," right?		
	210:12 A. Yes.		
 696.1.2	210:13 Q. Now, from the first sentence of your memo		
	210:14 you're indicating that based on the data that you		
	210:15 looked at, the industry, by the end of 2003, was		
	210:16 experiencing some of the highest producer egg prices		
	210:17 in history, right?		
	210:18 A. That's what it says, yes.		
	210:19 Q. And then in the document you look at how		
	210:20 that affects decisions, the economics of the		
	210:21 decision of a producer to molt?		
	210:22 A. Yes.		
 696.2.1	210:23 Q. And if you look at page 2 at the end of the		
	210:24 second paragraph from the top, you write, "Obviously		
	210:25 current egg price levels do not justify molting."		
	211:01 Do you see that?		



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DESIGNATION	SOURCE	DURATION	ID
	211:02 A. When it underlines "current" -- what does		
	211:03 it say about current? -- it underlines the word		
	211:04 "current"?		
	211:05 Q. Right.		
	211:06 A. So it says -- the other statement is		
	211:07 relative to general prices and so on.		
	211:08 The current says that the relationship at		
	211:09 this moment is that you shouldn't molt, right, "do		
	211:10 not justify molting."		
	211:11 So if you look at all of the possibilities		
	211:12 of molting price there is a relationship, but you		
	211:13 can go too far and you don't go far enough.		
	211:14 Individual companies can make a lot more		
	211:15 money molting, other companies can make a lot more		
	211:16 money not molting and so you can condemn it -- I		
	211:17 think we had another document that some of the		
	211:18 members were condemning it, per se. Well, that's		
	211:19 just not --		
	211:20 Q. But from the point of view of economics,		
	211:21 the point you make here is that, in general, molting		
	211:22 appears to be justified only under low margin		
	211:23 combinations of low egg prices and high pullet		
	211:24 prices?		
	211:25 A. Did I say "only"?		
 696.2.2	212:01 Q. Do you see where you say, "In general,		
	212:02 molting appears to be just identified only under low		
	212:03 margin combinations of low prices and high" --		
	212:04 A. I did say "only," yeah.		
	212:05 Q. And that was your view at the time?		
	212:06 A. Obviously, yes.		
	212:07 Q. And the point you're making here is under		
	212:08 these very high egg prices --		
	212:09 A. These are not high egg prices.		
	212:10 Q. Well, you referred to them as the		
	212:11 highest --		
 Clear	212:12 A. I mean compared to today.		
216:02 - 216:05	Bell, Donald 2013-08-21	00:00:13	Bell_Final.165
 154.1.2	216:02 Q. All right, Mr. Bell, we're looking at Bell		
 154.1.1	216:03 Exhibit 19. Can you identify this as an e-mail you		
	216:04 sent to Al Pope and Gene Gregory on March 24th, 2004		

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DESIGNATION	SOURCE	DURATION	ID
	216:05 with an attachment that's one of your memos.		
216:08 - 217:10	Bell, Donald 2013-08-21	00:01:16	Bell_Final.166
	216:08 Q. And do you recall preparing this memo?		
	216:09 A. Yes.		
	216:10 Q. Do you recall discussing it with Al Pope		
	216:11 and Gene Gregory?		
	216:12 A. Only in e-mail form.		
	216:13 Q. Do you recall discussions other than what		
	216:14 we're looking at here in Bell 19?		
	216:15 A. About this same subject?		
	216:16 Q. Right.		
	216:17 A. About this newsletter?		
	216:18 Q. Right.		
	216:19 A. No, I don't recall any discussion about it,		
	216:20 except for the e-mail.		
 154.2	216:21 Q. Okay. Fair enough. So let's look at the		
	216:22 memo. And it is dated March 1, 2004, and it's		
 154.2.1	216:23 titled, "What a Difference a Year Makes," and it is		
	216:24 one you prepared, correct?		
	216:25 A. Yes.		
	217:01 Q. When you say "What a Difference a Year		
	217:02 Makes," you're referring to, at least in part, the		
	217:03 prices that were at favorable levels at the time?		
	217:04 A. I would say I was looking at total margin,		
	217:05 total net income. That's the number we're quoting		
	217:06 here.		
	217:07 Q. When you say "net income," that means		
	217:08 profits?		
	217:09 A. Good question. It would be income minus		
	217:10 costs.		
217:17 - 217:20	Bell, Donald 2013-08-21	00:00:14	Bell_Final.167
 154.2.2	217:17 And what you report here is over the course		
	217:18 of the year, the conditions in the industry that		
	217:19 prevailed led to an improvement in industry revenue		
	217:20 of \$1 billion or more?		
217:23 - 218:05	Bell, Donald 2013-08-21	00:00:21	Bell_Final.168
	217:23 Q. Is that right?		
	217:24 A. That's conclusions. The table indicates it		
	217:25 is mostly egg price was the reason.		
	218:01 Q. The improved egg price led to --		




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DESIGNATION	SOURCE	DURATION	ID
	218:02 A. Yes.		
	218:03 Q. -- an improvement in revenue of a billion		
	218:04 dollars or more?		
	218:05 A. Yes.		
218:17 - 218:20	Bell, Donald 2013-08-21	00:00:12	Bell_Final.169
 154.2.3	218:17 Q. And one thing that you observed during this		
	218:18 period is that the industry had successfully held		
	218:19 hen numbers down, correct?		
	218:20 A. That's what the statement says, yes.		
219:23 - 220:05	Bell, Donald 2013-08-21	00:00:25	Bell_Final.170
	219:23 Q. But putting aside what's stated in the		
	219:24 document, your expectation, based on the work you've		
	219:25 done, was that the implementation of the cage space		
	220:01 guidelines was going to affect supply in a manner		
	220:02 consistent with what's reported here?		
	220:03 A. We -- in other -- in other reports that		
	220:04 we've already discussed, that would be the		
	220:05 relationship that we would expect.		
220:11 - 220:21	Bell, Donald 2013-08-21	00:00:56	Bell_Final.171
 826.1.1	220:11 Q. Let me hand you what we've marked Bell 20.		
	220:12 This is Bates-stamped BELL-D-0028600 through -28605.		
	220:13 And, Mr. Bell, can you identify this as a		
 826.1.2	220:14 memo that you wrote dated July 23, 2004 and titled,		
	220:15 "Arguments For and Against Back Filling Table Egg		
	220:16 Layer Flocks"?		
	220:17 A. Yes.		
	220:18 Q. Now, we've seen in some other memos that		
	220:19 you say that Gene Gregory had asked you to look at		
	220:20 the subject of the memo. Do you recall whether		
	220:21 Mr. Gregory asked you to look at backfilling?		
220:24 - 221:08	Bell, Donald 2013-08-21	00:00:37	Bell_Final.172
	220:24 THE WITNESS: I have a feeling that he		
	220:25 asked me to write this one, because I don't usually		
	221:01 use the word "backfilling." I think that's more of		
	221:02 an industry word than one I would use.		
	221:03 BY MR. OLSON:		
	221:04 Q. And do you recall at this time that		
	221:05 backfilling was something that Gregory was concerned		
	221:06 about?		

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DESIGNATION	SOURCE	DURATION	ID
	221:07 A. He would be concerned with anything that		
	221:08 diluted the effects of their cage density policies.		
221:09 - 221:21	Bell, Donald 2013-08-21	00:00:52	Bell_Final.173
	221:09 Q. And would it be fair to say that there was		
	221:10 some concern by Mr. Gregory and others at this time		
	221:11 that backfilling was a loophole of sorts in those		
	221:12 cage density policies?		
	221:13 A. I personally would be opposed to		
	221:14 backfilling, more from a social, chicken social, and		
	221:15 from a disease potential. Historically, we never		
	221:16 recommend backfilling.		
	221:17 Also from identification of a flock, we		
	221:18 lose total identification when we mix birds from		
	221:19 other flocks. And I depend very heavily on flock		
	221:20 identity and flock performance in all of our		
	221:21 studies, model building, and so on.		
221:25 - 222:09	Bell, Donald 2013-08-21	00:00:29	Bell_Final.174
	221:25 Q. Well -- and we'll get to that. But just as		
	222:01 these preliminary questions going back to		
	222:02 Mr. Gregory's interest in this, and you referred to		
	222:03 Mr. Gregory being concerned with anything that		
	222:04 diluted the effects of the cage density policies.		
	222:05 A. Yes.		
	222:06 Q. Just to refocus on that for a moment, my		
	222:07 question was, were you aware of a concern by		
	222:08 Mr. Gregory at this time that backfilling was a		
	222:09 loophole of sorts in those cage density policies?		
222:12 - 223:17	Bell, Donald 2013-08-21	00:01:49	Bell_Final.175
	222:12 THE WITNESS: The recommendations of UEP		
	222:13 and the agreements that people made relative to		
	222:14 density were for a maximum number of birds.		
	222:15 If a person had normal mortality versus a		
	222:16 catastrophic mortality, there's two different		
	222:17 thoughts about backfilling.		
	222:18 If your house is only -- if you're only		
	222:19 allowed 80 percent of your original, you originally		
	222:20 had 100 percent, now 80, and you lost half of them		
	222:21 due to a catastrophic emergency, then he would make		
	222:22 a very big claim to somebody to replace those		
	222:23 missing birds, because they are going to be missing		

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DESIGNATION	SOURCE	DURATION	ID
	222:24 for one or two years. That's the whole concept.		
	222:25 So you have people that are having		
	223:01 excessive mortality. And what I mean by "excessive		
	223:02 mortality," it would be, say, from 10 points -- .1		
	223:03 percent a week to 40 or 50, and so that's a four- to		
	223:04 fivefold difference in mortality.		
	223:05 So it's an offer from the system to the		
	223:06 individual members who need to do this, who need to		
	223:07 do this because it reduces their hen numbers way		
	223:08 more than normal.		
	223:09 BY MR. OLSON:		
	223:10 Q. Okay. Let's put aside the issue of		
	223:11 excessive mortality.		
	223:12 A. Okay.		
	223:13 Q. Putting aside that issue, were you aware of		
	223:14 a concern at this time in 2004 that the use of		
	223:15 backfilling in cases of normal mortality was		
	223:16 undercutting the purposes of the cage density		
	223:17 guidelines?		
223:19 - 223:21	Bell, Donald 2013-08-21	00:00:12	Bell_Final.176
	223:19 THE WITNESS: Any backfilling would		
	223:20 increase the population and would defeat the		
	223:21 original effect of reducing the profitability.		
224:02 - 225:25	Bell, Donald 2013-08-21	00:02:46	Bell_Final.177
	224:02 Q. Was that a concern that Mr. Gregory had at		
	224:03 this time, to your knowledge?		
	224:04 A. He would have been confronted with -- from		
	224:05 individual members that this is a concern to me as		
	224:06 an individual member, and if there is enough of		
	224:07 that, then it is a concern to UEP as well. And if		
	224:08 there is enough concern to that, then he would turn		
 826.2.1	224:09 it over to somebody else.		
	224:10 These are my pros and cons, my advantages,		
	224:11 my disadvantages, as I perceive them, but there are		
	224:12 undoubtedly others.		
	224:13 Q. If you look at just -- I think to get to		
 826.3.1	224:14 your summary here, if you look at the sentence at		
 826.4.2	224:15 the bottom of page 3 that's cut off there, it starts		
	224:16 with, "If enough producers adopt the practice of" --		

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DESIGNATION	SOURCE	DURATION	ID
224:17	and then it continues on to the next page		
224:18	"backfilling, we would be faced with an additional 2		
224:19	to 2.5 percent laying hens and a resultant egg price		
224:20	depression of 10 percent or 5 to 6 cents per dozen		
224:21	(or more)."		
224:22	Do you see that?		
224:23	A. Yes.		
224:24	Q. And was that a concern that you had at this		
224:25	time, that the practice of backfilling could lead to		
225:01	that?		
225:02	A. After he asked me to give some thought to		
225:03	this subject, and this -- a paper like this might		
225:04	take me a day's worth of thought, as opposed to five		
225:05	minutes here, but that's my conclusions about that		
225:06	one issue of the backfilling.		
225:07	Q. And that raised concerns for you?		
225:08	A. Well, that's a significant amount of money.		
225:09	Q. And you then, in bold, underlined --		
225:10	basically cautioned individual producers not to		
225:11	engage in that practice, right?		
225:12	A. Yes. I'm concerned about multiple small		
225:13	amounts giving us a large amount. And if you just		
225:14	look at one little thing and say that it only		
225:15	affects the industry by a penny a hen, well, you		
225:16	multiply that by almost 300,000 -- 300 million, and		
225:17	then you are talking about the real money. But if		
225:18	you are also relating it to the profitability of the		
225:19	industry where you're talking about maybe 25 to 50		
225:20	cents, well, 1 cent a hen is several percentage		
225:21	points.		
225:22	Q. And do you recall whether at this time		
225:23	Mr. Gregory shared your concern that the use of		
225:24	backfilling in the industry could hurt the		
225:25	industry's profitability?		
226:03 - 227:08	Bell, Donald 2013-08-21	00:01:13	Bell_Final.178
226:03	THE WITNESS: He asked me to give a		
226:04	two-sided viewpoint in the first place. So he was		
226:05	concerned, enough of his people were concerned, that		
226:06	they should address it. And he didn't feel like he		
226:07	was capable of doing it himself and I was available,		




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DESIGNATION	SOURCE	DURATION	ID
	226:08 and so he, undoubtedly, asked me to give it some		
	226:09 thought.		
	226:10 BY MR. OLSON:		
 826.5	226:11 Q. All right. And then you attach, as you'll		
	226:12 see on page 5, an article entitled, "Potential		
 826.5.1	226:13 Health Risks of Backfilling at Molt."		
	226:14 Do you see that?		
	226:15 A. Yes.		
	226:16 Q. By Kenton Kreager of Hy-Line International?		
	226:17 A. Yes.		
	226:18 Q. What is Hy-Line International?		
	226:19 A. Yes.		
	226:20 Q. What is Hy-Line International?		
	226:21 A. It is the largest producer of baby chicks.		
	226:22 Q. So it's an egg producer?		
	226:23 MR. TAKENOUCHI: No --		
	226:24 BY MR. OLSON:		
	226:25 Q. Oh, chick producer?		
	227:01 A. Chick producer.		
 826.5.2	227:02 Q. And do you see at the bottom Mr. Kreager,		
	227:03 the bottom paragraphs says, "Transfers of back-fill		
	227:04 hens from within the same complex should be safe, as		
	227:05 all houses within a complex are usually of the same		
	227:06 vaccination history and exposure."		
	227:07 Do you see that?		
	227:08 A. Yes, I see that.		
228:12 - 228:14	Bell, Donald 2013-08-21	00:00:16	Bell_Final.179
 592.1.5	228:12 Q. I'm handing you what's been marked Bell 21.		
	228:13 I'm going to have to get the Bates stamp of		
	228:14 this document.		
228:15 - 228:15	Bell, Donald 2013-08-21	00:00:07	Bell_Final.180
	228:15 It is UE0153245 through -246.		
228:16 - 228:19	Bell, Donald 2013-08-21	00:00:11	Bell_Final.181
 592.1.1	228:16 Mr. Bell, can you identify this as the		
	228:17 minutes of a shell egg marketing committee meeting		
	228:18 in October 20th, 2004 that you attended?		
	228:19 A. Yes.		
229:17 - 230:10	Bell, Donald 2013-08-21	00:01:05	Bell_Final.182
 592.1.3	229:17 I just want to look at the -- there is a		




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DESIGNATION	SOURCE	DURATION	ID
	229:18 heading at the bottom that says, "Industry		
	229:19 Statistics and Economics," the bottom of page 1 and		
	229:20 spills over to page 2.		
	229:21 Why don't you just review that section.		
	229:22 A. Ken Looper was their vice president. He		
	229:23 presented -- he was a very big man on statistics.		
	229:24 We corresponded -- his company is the		
	229:25 largest company in the United States, it was then		
	230:01 also, and he and I correspond quite a bit because we		
	230:02 do have common interest.		
	230:03 He reported the Chilson report, Chilson is		
	230:04 an accounting firm that, at that time, was heavily		
	230:05 used in the industry and he had a lot of company		
	230:06 data across the country. All that was treated		
 592.1.6	230:07 confidentially between companies.		
	230:08 "Gregory presented further reports and		
	230:09 pleaded with the attendees to take care of business		
	230:10 by reducing their flock age" --		
231:03 - 231:21	Bell, Donald 2013-08-21	00:01:00	Bell_Final.183
	231:03 Q. You don't have to read it out loud.		
	231:04 A. Okay. Okay. There is a statement about		
	231:05 stop backfilling.		
	231:06 Is that your question?		
	231:07 Q. Well, that was going to be my question.		
	231:08 All right. So you see a reference to Gene		
	231:09 Gregory pleading with the attendees at the meeting		
	231:10 to take care of business by reducing their flock		
	231:11 age, stop backfilling and the use of old depreciated		
	231:12 houses?		
	231:13 A. Yes, I do see that.		
	231:14 Q. Does that refresh your recollection on		
	231:15 views expressed by Mr. Gregory at the time about		
	231:16 this use of backfilling?		
	231:17 A. This was four months beyond -- four or five		
	231:18 months beyond my complete article here that we just		
	231:19 talked about.		
	231:20 Now, the problem has not been resolved in		
	231:21 four months.		
231:25 - 232:05	Bell, Donald 2013-08-21	00:00:24	Bell_Final.184
	231:25 Q. About Mr. Gregory's views on backfilling in		

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DESIGNATION	SOURCE	DURATION	ID
	232:01 2004.		
	232:02 A. I understand he's still concerned.		
	232:03 Q. And Mr. Gregory, at this meeting that you		
	232:04 attended, pleaded with producers to stop		
	232:05 backfilling; is that your understanding?		
232:07 - 232:08	Bell, Donald 2013-08-21	00:00:03	Bell_Final.185
 Clear	232:07 THE WITNESS: Along with several other		
	232:08 things.		
232:10 - 232:12	Bell, Donald 2013-08-21	00:00:05	Bell_Final.186
	232:10 Q. And these other things are reducing their		
	232:11 flock age.		
	232:12 What does that refer to?		
232:14 - 232:17	Bell, Donald 2013-08-21	00:00:22	Bell_Final.187
	232:14 THE WITNESS: I'm trying to think what		
	232:15 reducing the flock age would result in.		
	232:16 To me it would result in higher		
	232:17 productivity per bird.		
244:18 - 244:24	Bell, Donald 2013-08-21	00:00:18	Bell_Final.188
 32.2.2	244:18 Q. Okay. Mr. Bell, I've handed you what has		
	244:19 been marked Bell Exhibit 24. It is Bates-stamped		
	244:20 UE0918791 through -796.		
	244:21 I can see you flipping through the		
	244:22 document. When you've had a brief chance to		
	244:23 familiarize yourself with the document, please let		
	244:24 me know.		
244:25 - 245:13	Bell, Donald 2013-08-21	00:00:32	Bell_Final.189
	244:25 And I want to really focus, if I can, just		
	245:01 on one e-mail. This is going to be brief.		
	245:02 A. Go ahead.		
 32.2.3	245:03 Q. It is the one on the second page that is		
	245:04 from Don Lucy Bell dated Friday, May 30th, 2008 at		
	245:05 1:02 p.m.		
	245:06 A. Yes.		
	245:07 Q. Now, donlucybell@charter.net, is that your		
	245:08 e-mail address?		
	245:09 A. That's our personal address, yes.		
	245:10 Q. That's one that you use?		
	245:11 A. Now a hundred percent.		
	245:12 Q. And so can you identify that e-mail as one		



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DESIGNATION	SOURCE	DURATION	ID
	245:13 you wrote and sent to Gene Gregory on May 30, 2008?		
245:14 - 245:15	Bell, Donald 2013-08-21	00:00:06	Bell_Final.190
	245:14 A. Yes, I wrote the individual -- part of		
	245:15 this.		
245:22 - 246:15	Bell, Donald 2013-08-21	00:00:49	Bell_Final.191
 32.3.2	245:22 Now, I just want to look at the -- I		
	245:23 believe it is the third full paragraph of your		
	245:24 e-mail that starts "I recall."		
	245:25 A. What page?		
	246:01 Q. The next page, and it is in -93.		
	246:02 A. Third, "I recall."		
 32.3.3	246:03 Q. I would just like you to confirm that these		
	246:04 were your words.		
	246:05 It says, "I recall many years ago that we		
	246:06 also recommended 72 square inches for cages. We		
	246:07 also recommended against molting. Then, we		
	246:08 suggested that molting gives better returns and now,		
	246:09 under present economic conditions, we'll be		
	246:10 emphasizing no-molt programs. Things change,		
	246:11 assumptions need to be understood, economics plays a		
	246:12 major role in all such decisions," and then it		
	246:13 continues.		
	246:14 Were those your words?		
 Clear	246:15 A. Yes.		
251:14 - 252:05	Bell, Donald 2013-08-21	00:00:53	Bell_Final.192
	251:14 Q. Now, when you -- let's talk about the		
	251:15 process of you preparing these memos while you were		
	251:16 on retainer by UEP. We've seen that sometimes		
	251:17 Mr. Gregory would suggest a topic for you, right?		
	251:18 A. Yes.		
	251:19 Q. Sometimes would you come up with a topic on		
	251:20 your own?		
	251:21 A. 95 percent of the time, yes.		
	251:22 Q. And then when you finished the memo, what		
	251:23 would you do?		
	251:24 A. I would e-mail it to Mr. Gregory.		
	251:25 Q. And would Mr. Gregory -- were there ever		
	252:01 times that Mr. Gregory wrote back to you and asked		
	252:02 you to make changes in what you had prepared?		
	252:03 A. No.		





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DESIGNATION	SOURCE	DURATION	ID
	252:04 Q. That never happened?		
	252:05 A. Not to my knowledge.		
252:10 - 252:11	Bell, Donald 2013-08-21	00:00:11	Bell_Final.193
 205.1.4	252:10 Q. Let me hand you what we've marked Bell 26.		
	252:11 And why don't you take out Exhibit 15.		
252:12 - 252:18	Bell, Donald 2013-08-21	00:00:10	Bell_Final.194
	252:12 A. 1-5?		
	252:13 Q. Yes.		
	252:14 A. What do we have here, a new one?		
	252:15 Q. Yes.		
	252:16 A. You want to talk about that first?		
	252:17 Q. Pull out 15 and put that to the side, and		
	252:18 I'd like you to look at what we've marked as 26.		
252:23 - 253:21	Bell, Donald 2013-08-21	00:01:16	Bell_Final.195
 205.1.1	252:23 Q. Now, Mr. Bell, can you identify Bell 26 as		
	252:24 an e-mail you received from Gene Gregory on April		
	252:25 17th, 2002?		
	253:01 A. Yes.		
	253:02 Q. And Mr. Gregory is responding to an e-mail		
	253:03 that you sent to him on April 16th, 2002 in which		
	253:04 you had attached one of your economic memos; is that		
	253:05 right?		
	253:06 A. Yes, yes.		
	253:07 Q. And that's the memo that's Exhibit 15,		
	253:08 right?		
	253:09 A. Yes.		
	253:10 Q. And does Bell Exhibit 26 refresh your		
	253:11 recollection about Mr. Gregory requesting that you		
	253:12 make changes?		
	253:13 A. Yes. I interpreted that as editorial		
	253:14 suggestions, not necessarily that I responded to		
	253:15 that, but he was suggesting this.		
	253:16 Q. So in Bell Exhibit 26 Mr. Gregory is making		
	253:17 a suggestion about changes in your economic memo in		
	253:18 regard to your discussion of the -- what he calls		
	253:19 UEP cage density reduction proposal.		
	253:20 Do you see that?		
	253:21 A. Let me have a minute, please?		
253:22 - 254:06	Bell, Donald 2013-08-21	00:00:24	Bell_Final.196


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DESIGNATION	SOURCE	DURATION	ID
	253:22 Q. Sure.		Bell_Final.196
	253:23 A. Do you have the original?		
	253:24 Q. I don't know if 15 is the original or not.		
	253:25 Do you?		
	254:01 A. My draft that I would have sent him, this		
	254:02 is a finished product.		
	254:03 Q. How can you tell it is a finished product?		
	254:04 A. It is what we are talking about. It is an		
	254:05 evolution. I wrote something, he's giving comments		
	254:06 about it and there must be a product.		
255:04 - 255:07	Bell, Donald 2013-08-21	00:00:12	Bell_Final.197
 205.1.2	255:04 Q. For the sake of the record, what		
	255:05 Mr. Gregory asks you to do is to make a change in		
	255:06 how you discussed UEP's cage density reduction		
	255:07 proposal, right?		
255:09 - 256:13	Bell, Donald 2013-08-21	00:01:35	Bell_Final.198
	255:09 THE WITNESS: That's the way I read it,		
	255:10 yes.		
	255:11 BY MR. OLSON:		
 205.1.3	255:12 Q. And he says that, "I would prefer that we		
	255:13 focus upon these changes being animal husbandry		
	255:14 guidelines, which results in increased space for		
	255:15 hens," right?		
	255:16 A. That's what he says.		
	255:17 Q. And he says, "I don't want anyone to think		
	255:18 of this as the supply reduction program, even though		
	255:19 we know the effect will be the same in the short		
	255:20 term," that's what he says, right?		
	255:21 A. That's what he says.		
	255:22 Q. And you, sitting here today, do you		
	255:23 remember how you responded?		
	255:24 A. No, but I think I responded to you often		
	255:25 enough here that I don't consider -- that I do		
	256:01 consider it an economic issue. And to separate		
	256:02 cause and effect which came first, the chicken or		
	256:03 the egg, and these questions, I'm just not sure how		
	256:04 to respond to you -- as a supply reduction program,		
	256:05 some people -- some people may have suggested this,		
	256:06 some people may have worked with this, some people		
	256:07 have -- may have voted for it, but in my role we		

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DESIGNATION	SOURCE	DURATION	ID
	256:08 weren't working on welfare.		
	256:09 Q. And do you --		
	256:10 A. Go ahead.		
	256:11 Q. Did you have an understanding that		
	256:12 Gene Gregory was concerned about the program being		
	256:13 discussed as a supply reduction program?		
256:16 - 256:24	Bell, Donald 2013-08-21	00:00:36	Bell_Final.199
	256:16 THE WITNESS: I think editor, and he is the		
	256:17 ultimate editor, because he has to put it out, would		
	256:18 be concerned about somebody's phraseology and		
	256:19 emphasis, degrees of emphasis relative to his own		
	256:20 emphasis.		
	256:21 I wrote it from my viewpoint, and it's not		
	256:22 perfect. So he apparently thought the tone or the		
	256:23 emphasis was somewhat controversial and wanted me to		
 Clear	256:24 reconsider it in his letter.		
264:03 - 264:06	Bell, Donald 2013-08-21	00:00:10	Bell_Final.200
 160.1.2	264:03 Q. Look at Bell 17. And the Bates		
	264:04 number on the first page is CM430620. I think it is		
	264:05 in front of you.		
	264:06 A. Yes.		
264:12 - 264:25	Bell, Donald 2013-08-21	00:00:36	Bell_Final.201
 160.11	264:12 Now, if you look on there, a little below the middle		
	264:13 part of the page, do you see a paragraph starting		
 160.11.4	264:14 "UEP's Animal Husbandry Guidelines"?		
	264:15 A. Yes.		
 160.11.7	264:16 Q. Could you read that first sentence there?		
	264:17 A. "UEP's animal husbandry guidelines were		
	264:18 never intended as a supply management program."		
	264:19 Q. Okay. Now, I think when you were		
	264:20 questioned about that before you weren't paying		
	264:21 attention to some other language there, but for that		
	264:22 particular portion of that sentence, did you		
	264:23 understand that to be the case?		
	264:24 A. That was what I understand to be our		
	264:25 mission as a committee.		
265:01 - 265:04	Bell, Donald 2013-08-21	00:00:04	Bell_Final.202
	265:01 Q. Okay. So this statement here was		
	265:02 consistent with what your understanding of the		

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DESIGNATION	SOURCE	DURATION	ID
	265:03 mission was?		
 Clear	265:04 A. Yes.		
265:07 - 266:06	Bell, Donald 2013-08-21	00:01:24	Bell_Final.203
	265:07 Q. And when you say, "our mission as a		
	265:08 committee," what do you mean?		
	265:09 A. The committee's mission that they were		
	265:10 requested to study and recommend was not a supply		
	265:11 management program, but, instead, it was an animal		
	265:12 welfare committee, and that's what we emphasized.		
	265:13 Q. And you're referring to the Scientific		
	265:14 Advisory Committee, correct?		
	265:15 A. Yes.		
	265:16 Q. Are there any animal welfare benefits to		
	265:17 reduce the cage density?		
	265:18 A. Yes.		
	265:19 Q. And what are those?		
	265:20 A. Chickens would have -- would produce less		
	265:21 eggs at more dense conditions. They will die at a		
	265:22 higher rate, they will crack more eggs. They will		
	265:23 have more health problems, as they are crowded, and		
	265:24 they may pick at each other more if they are		
	265:25 crowded.		
	266:01 Is this your question?		
	266:02 Q. Yes.		
	266:03 A. Yes. And that's why the committee on		
	266:04 animal welfare, Scientific Advisory Committee for		
	266:05 animal welfare, we placed as much emphasis as they		
	266:06 did on the question of cage density.		
266:23 - 267:19	Bell, Donald 2013-08-21	00:01:23	Bell_Final.204
	266:23 Q. Do you know why cage density came up in the		
	266:24 context of the Scientific Advisory Committee's work?		
	266:25 A. Like I indicated, because of its impact on		
	267:01 the welfare of the chickens. The research -- I		
	267:02 listed half a dozen right now, reasons, and the		
	267:03 drive behind the committee's formation was the		
	267:04 result of the humane society's concern about animal		
	267:05 welfare. And that was the pressure, tens of		
	267:06 thousands of dollars were being spent to argue their		
	267:07 point, the humane society, as well as United Egg		
	267:08 Producers. It had to be resolved, and it still has		

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DESIGNATION	SOURCE	DURATION	ID
	267:09 to be resolved.		
	267:10 Q. Around that time were there other entities		
	267:11 that were making changes or demanding changes about		
	267:12 animal welfare?		
	267:13 A. There's just a list as long as your arm of		
	267:14 activist organizations that are promoting animal		
	267:15 welfare as they interpret it. Some of it may		
	267:16 emphasize cages, some of it may emphasize molting,		
	267:17 some may emphasize beak trimming, some of it		
	267:18 just they don't like animals to be used. That's a		
	267:19 very big problem.		
267:20 - 267:21	Bell, Donald 2013-08-21	00:00:04	Bell_Final.205
	267:20 Q. And was this an issue back in 2000, 1999?		
	267:21 A. Yes, it was. Yes, it was.		
272:15 - 272:16	Bell, Donald 2013-08-21	00:00:10	Bell_Final.206
 154.1.3	272:15 I want to show you -- referring back to --		
	272:16 take a look at Bell 19. This is Bates-numbered UE		
272:17 - 272:19	Bell, Donald 2013-08-21	00:00:11	Bell_Final.207
	272:17 880125.		
 154.2.1	272:18 And this is another -- it's a commentary		
	272:19 you wrote in March 2004.		
274:08 - 274:10	Bell, Donald 2013-08-21	00:00:09	Bell_Final.208
 Clear	274:08 Q. The period after this, mid to late 2004		
	274:09 going into 2005, was there a price trend in that		
	274:10 period that you recall?		
274:12 - 274:22	Bell, Donald 2013-08-21	00:00:46	Bell_Final.209
	274:12 THE WITNESS: Well, this time is right		
	274:13 after the avian influenza problem on the East Coast		
	274:14 where 2 million birds, I believe, were disposed or		
	274:15 killed. That, in itself, raised the price of eggs		
	274:16 for the next year or two for the nation.		
	274:17 After that was over with and production		
	274:18 came back to normal, the rest of the nation took		
	274:19 their retail egg prices down to where it was.		
	274:20 California left it where it was because they had		
	274:21 shown that that pricing policy that they used at		
	274:22 that time was effective.		
274:24 - 274:25	Bell, Donald 2013-08-21	00:00:05	Bell_Final.210
	274:24 Q. So after the avian influenza in effect in		

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DESIGNATION	SOURCE	DURATION	ID
	274:25 2004, prices dropped again?		
275:02 - 275:02	Bell, Donald 2013-08-21	00:00:01	Bell_Final.211
	275:02 THE WITNESS: But not in California.		
283:10 - 283:18	Bell, Donald 2013-08-21	00:00:16	Bell_Final.212
	283:10 Q. Now, I think you testified earlier about		
	283:11 some of the benefits of giving hens more space?		
	283:12 A. Yes.		
	283:13 Q. And I think you said something about		
	283:14 productivity.		
	283:15 Do you remember that?		
	283:16 A. Productivity means eggs.		
	283:17 Q. Okay. So how does giving hens more space		
	283:18 result in more eggs?		
283:20 - 284:01	Bell, Donald 2013-08-21	00:00:31	Bell_Final.213
	283:20 THE WITNESS: It is their response to being		
	283:21 crowded. What's the total length of time? Normally		
	283:22 there is good evidence in the 50- to 80-square-inch		
	283:23 range per bird that there is a step-by-step		
	283:24 regression relationship in that question, so -- have		
	283:25 I answered your question yet or do you want to		
	284:01 restate it?		
284:04 - 284:05	Bell, Donald 2013-08-21	00:00:03	Bell_Final.214
	284:04 Does giving hens more space result in more		
	284:05 eggs?		
284:07 - 284:07	Bell, Donald 2013-08-21	00:00:01	Bell_Final.215
	284:07 THE WITNESS: Yes.		
284:09 - 284:15	Bell, Donald 2013-08-21	00:00:21	Bell_Final.216
	284:09 Q. And how, exactly, does it --		
	284:10 A. How does it happen?		
	284:11 Q. Yes.		
	284:12 A. It is part of the peck order, which is a		
	284:13 sociological phenomena, that relates to chicken or		
	284:14 people, or whatever. It relates to access to the		
	284:15 feed and to the water.		
298:05 - 298:11	Bell, Donald 2013-08-21	00:00:29	Bell_Final.217
	298:05 Did your consultant agreement with UEP		
	298:06 include compensation for your service on the		
	298:07 Scientific Advisory Committee?		

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DESIGNATION	SOURCE	DURATION	ID
	298:08 A. No. I was on a retainer for just my time.		
	298:09 I think I said earlier that I received expenses. I		
	298:10 don't recall ever receiving an honorarium or a		
	298:11 special check or anything like that.		
298:12 - 298:16	Bell, Donald 2013-08-21	00:00:13	Bell_Final.218
	298:12 So it was my -- it was assumed that I would		
	298:13 attend the committee meeting, that's why they wanted		
	298:14 me on there in the first place.		
	298:15 And that was just part of my regular		
	298:16 activity.		
299:02 - 299:10	Bell, Donald 2013-08-21	00:00:15	Bell_Final.219
	299:02 Q. I'm just focusing now on the task you		
	299:03 agreed to do as part of your economic consultant		
	299:04 agreement.		
	299:05 A. Yes.		
	299:06 Q. And try to differentiate that from the		
	299:07 tasks outside the agreement.		
	299:08 So was the service on the Scientific		
	299:09 Advisory Committee part of this agreement or was it		
	299:10 something outside of this agreement?		
299:12 - 299:16	Bell, Donald 2013-08-21	00:00:17	Bell_Final.220
	299:12 THE WITNESS: No, the task on the		
	299:13 Scientific Advisory Committee, I guess, started in		
	299:14 '99, right?		
	299:15 This agreement here is dated 2001. That		
	299:16 coincides with my retirement period.		
301:09 - 301:11	Bell, Donald 2013-08-21	00:00:06	Bell_Final.221
	301:09 Q. Were you ever paid, other than expenses and		
	301:10 lodging, for your services on the Scientific		
	301:11 Advisory Committee?		
301:13 - 301:15	Bell, Donald 2013-08-21	00:00:12	Bell_Final.222
	301:13 THE WITNESS: I don't think so. Just the		
	301:14 travel expenses and my ongoing relationship --		
	301:15 ongoing agreement.		
301:16 - 301:21	Bell, Donald 2013-08-21	00:00:07	Bell_Final.223
	301:16 BY MR. TAKENOUCHI:		
	301:17 Q. That answer was a little unclear to me.		
	301:18 A. You want more?		
	301:19 Q. Okay. Other than expenses and lodging,		

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DESIGNATION	SOURCE	DURATION	ID
	301:20 taking that out of the equation --		
	301:21 A. Okay, okay.		
301:22 - 301:23	Bell, Donald 2013-08-21	00:00:05	Bell_Final.224
	301:22 Q. -- were you ever paid for your services on		
	301:23 the Scientific Advisory Committee?		
301:25 - 302:01	Bell, Donald 2013-08-21	00:00:04	Bell_Final.225
	301:25 THE WITNESS: As a member of the Scientific		
	302:01 Advisory Committee, was I ever paid for that --		
302:02 - 302:03	Bell, Donald 2013-08-21	00:00:00	Bell_Final.226
	302:02 BY MR. TAKENOUCHI:		
	302:03 Q. Yes.		
302:04 - 302:04	Bell, Donald 2013-08-21	00:00:02	Bell_Final.227
	302:04 A. -- separately? No.		
318:18 - 320:02	Bell, Donald 2013-08-21	00:02:28	Bell_Final.228
	318:18 Q. Do you know when you first started		
	318:19 recommending to producers that they might want to		
	318:20 look at their supply issues if they were concerned		
	318:21 about being a viable business?		
	318:22 A. I didn't -- I haven't said this before, but		
	318:23 it was inferred, that 40 percent of the time your		
	318:24 clients are losing money. And that is a repeatable		
	318:25 concept as far as I went back in my career. And I		
	319:01 started in 1957 with the year '57 analysis, and I		
	319:02 started in January of '58.		
	319:03 My experience was that that was frequent		
	319:04 enough, either -- either one month after another,		
	319:05 one year after another, or for that period that		
	319:06 that's a serious problem.		
	319:07 And when you relate it to the number of		
	319:08 eggs that are produced and the size of the flock and		
	319:09 all that, it's a very important relationship.		
	319:10 So much of my program had to do with		
	319:11 bringing that into line.		
	319:12 Approximately in a five-year period -- I		
	319:13 believe I testified to this yesterday, five or		
	319:14 six-year period is a cycle.		
	319:15 What I mean by a cycle, it means from good		
	319:16 to poor to bad to poor back to good annually.		
	319:17 And so I would say that there's two years		


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DESIGNATION	SOURCE	DURATION	ID
	319:18 of poor, two years of fair, one year of good in 319:19 every cycle. That's an important concept that maybe 319:20 outsiders don't realize, is that it's not a 319:21 continuously good or bad industry. It's an 319:22 up-and-down situation. 319:23 One of the highest peaks of profitability 319:24 we had was in the last four or five years, and it 319:25 had to do with the high cost of corn and so on. But 320:01 the up was in three months and the down was in three 320:02 months.		
321:02 - 321:09	Bell, Donald 2013-08-21 321:02 Q. Okay. So going back to the reports you did 321:03 for the cooperative extension, I think I'd asked if 321:04 you remembered when you first started telling 321:05 individual farmers or writing in newsletters that 321:06 there is a relationship between the supply of eggs 321:07 and the price of eggs? 321:08 A. Soon as I was convinced that this was an 321:09 ongoing problem.	00:00:25	Bell_Final.229
324:03 - 324:06	Bell, Donald 2013-08-21 324:03 Q. But you talk with USDA economists about 324:04 your recommendation about how to better match supply 324:05 and demand and, therefore, affect prices? 324:06 A. Yes.	00:00:08	Bell_Final.230
324:17 - 324:17  1.1.2	Bell, Donald 2013-08-21 324:17 Q. Sir, I want to refer you to Bell 8.	00:00:04	Bell_Final.231
324:18 - 324:21	Bell, Donald 2013-08-21 324:18 A. 8. 324:19 Q. This is that August 2nd, 1999 United 324:20 Voices. 324:21 A. Okay. Go ahead.	00:00:04	Bell_Final.232
324:22 - 325:01  1.3  1.3.1	Bell, Donald 2013-08-21 324:22 Q. And I think what we were looking at in this 324:23 document was on page 3, and I believe there's four 324:24 numbers there -- 1, 2, 3, 4 -- those 324:25 recommendations. I don't know how to characterize 325:01 those.	00:00:19	Bell_Final.233
334:01 - 334:03	Bell, Donald 2013-08-21 334:01 Q. What would have happened if there hadn't	00:00:05	Bell_Final.234

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DESIGNATION	SOURCE	DURATION	ID
	334:02 been this phasing-in period for these cage space		
	334:03 guidelines?		
334:05 - 334:09	Bell, Donald 2013-08-21	00:00:13	Bell_Final.235
	334:05 THE WITNESS: Well, an example is you might		
	334:06 get all the attorneys in the United States getting		
	334:07 after the regulators and saying that you're going to		
	334:08 put the whole business -- whole business out of		
	334:09 business.		
334:18 - 334:22	Bell, Donald 2013-08-21	00:00:19	Bell_Final.236
	334:18 ... You just		
	334:19 don't make changes overnight with six-month-old		
	334:20 bunch of birds, you don't kill six-month-old birds.		
	334:21 So just from logistic standpoint, the		
	334:22 transition period is very critical.		
334:24 - 335:01	Bell, Donald 2013-08-21	00:00:09	Bell_Final.237
	334:24 Q. If there hadn't been that transition period		
	334:25 for the cage space portion of the guidelines, what		
	335:01 would the effect have been on egg prices?		
335:03 - 335:10	Bell, Donald 2013-08-21	00:00:24	Bell_Final.238
	335:03 THE WITNESS: Well, I don't think it would		
	335:04 be enforceable to think that anybody could do it		
	335:05 overnight. Transition can be as much as one day,		
	335:06 one year, ten years, whatever.		
	335:07 We know what this was requested here as far		
	335:08 as transition period, but if it was a transition		
	335:09 period of one year, it would have been a		
	335:10 catastrophe.		
335:12 - 335:23	Bell, Donald 2013-08-21	00:00:37	Bell_Final.239
	335:12 Q. And what would be the price effects of that		
	335:13 catastrophe?		
	335:14 A. Probably you couldn't pay for the eggs, and		
	335:15 then the market would be disrupted, eggs would not		
	335:16 travel across the country.		
	335:17 Price would escalate, the consumer would		
	335:18 have to foot the bill, and then you might even have		
	335:19 a shortage.		
	335:20 You might have a shortage to the point that		
	335:21 a supermarket chain might just run out of eggs,		
	335:22 period, for a day or two, if there was no orderly		

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DESIGNATION	SOURCE	DURATION	ID
	335:23 transition.		
336:01 - 336:05	Bell, Donald 2013-08-21	00:00:09	Bell_Final.240
 Clear	336:01 Mr. Bell, do you think the Scientific		
	336:02 Advisory Committee was a sham designed to just		
	336:03 rubber-stamp an effort by egg producers to inflate		
	336:04 prices?		
	336:05 A. Absolutely not.		
336:18 - 336:21	Bell, Donald 2013-08-21	00:00:10	Bell_Final.241
	336:18 Q. At any time while the committee was doing		
	336:19 its work, did anyone ever tell you that the		
	336:20 Scientific Advisory Committee was a sham designed to		
	336:21 rubber-stamp a conspiracy to inflate egg prices?		
336:23 - 336:23	Bell, Donald 2013-08-21	00:00:01	Bell_Final.242
	336:23 THE WITNESS: No.		
336:25 - 337:04	Bell, Donald 2013-08-21	00:00:10	Bell_Final.243
	336:25 Q. Did any members of the Scientific Advisory		
	337:01 Committee ever say that they felt their role was to		
	337:02 help the industry suppress the supply of eggs and,		
	337:03 thereby, increase egg prices?		
	337:04 A. No.		
337:07 - 337:10	Bell, Donald 2013-08-21	00:00:12	Bell_Final.244
	337:07 Q. If the goal of the Scientific Advisory		
	337:08 Committee had been to inflate egg prices, do you		
	337:09 think the members of the Scientific Advisory		
	337:10 Committee would have participated in the committee?		
337:11 - 337:11	Bell, Donald 2013-08-21	00:00:02	Bell_Final.245
	337:11 A. Not the specific members --		
337:13 - 337:18	Bell, Donald 2013-08-21	00:00:18	Bell_Final.246
	337:13 THE WITNESS: The composition of the		
	337:14 committee would be totally different. If the issue		
	337:15 was health of the industry or economic health or		
	337:16 what have you, this committee had its expertise in		
	337:17 animal welfare, period.		
	337:18 I was the only one that ever was concerned		
337:19 - 337:21	Bell, Donald 2013-08-21	00:00:12	Bell_Final.247
	337:19 about the economics of what was going on or being		
	337:20 recommended, but animal welfare was the driver in		
	337:21 this committee.		

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DESIGNATION	SOURCE	DURATION	ID
338:13 - 338:18	Bell, Donald 2013-08-21	00:00:18	Bell_Final.248
338:13	Q. Mr. Bell, did you initiate any discussions		
338:14	during your service on the Scientific Advisory		
338:15	Committee where you had the goal of increasing egg		
338:16	prices?		
338:17	A. I didn't have the role of increasing egg		
338:18	prices as a member of the committee.		
338:19 - 338:22	Bell, Donald 2013-08-21	00:00:15	Bell_Final.249
338:19	I'm able to separate -- I'm able to		
338:20	separate topics, and today we're going to talk about		
338:21	animal welfare and tomorrow I'm going to still be		
338:22	concerned about egg prices.		

As Played	02:28:29
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TOTAL RUN TIME	02:28:29
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Documents linked to video:

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